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| Filed: | December 16, 1999 |
| Substantial Issue: | February 16, 2001 |
| Staff: | JAS/CLK-SF |
| Staff Report: | July 25, 2001 |
| Hearing Date: | August 9, 2001 |

## APPEAL STAFF REPORT
## DE NOVO REVIEW

| | |
|---|---|
| **APPEAL NO.:** | **A-2-SMC-99-066** |
| **APPLICANT:** | **David Lee** |
| **AGENT:** | **Stan Field** |
| **LOCAL GOVERNMENT:** | **San Mateo County** |
| LOCAL DECISION: | Approval with Conditions |
| PROJECT LOCATION: | 2070 Cabrillo Highway, in the unincorporated Pescadero area of San Mateo County, APN 089-230-220. |
| PROJECT DESCRIPTION: | Construction of a two-story, 6,000-square-foot single-family residence with attached four-car garage, 700-square-foot detached accessory building, 6,000-square-foot pond, lap pool, and driveway, and installation of a septic system and water pipeline on a 84.49-acre lot. |
| APPELLANTS: | Commissioners Sara Wan and Christina Desser, California Coastal Commission |
| SUBSTANTIVE FILE DOCUMENTS: | See Appendix A |
| STAFF RECOMMENDATION: | Approval with Conditions |

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## LIST OF CORRESPONDENCE

| | |
|---|---|
| August 28, 1999 | Letter from Ronald Schafer, California Department of Parks and Recreation to San Mateo County Planning Division |
| September 21, 1999 | Letter from Damon DiDonato, Project Planner, San Mateo County to Ronald Schafer, California Department of Parks and Recreation |
| September 2, 1999 | Letter from Lennie Roberts, Committee for Green Foothills to Damon DiDonato, Project Planner, San Mateo County |
| September 21, 1999 | Letter from Damon DiDonato, Project Planner, San Mateo County to Lennie Roberts, Committee for Green Foothills |
| September 14, 1999 | Letter from Brian L. Hinman to Stan Field |
| September 15, 1999 | Letter from Stephanie Jennings and Paul Pfluke |
| September 16, 1999 | Letter from The Bolings to Stan Field |
| September 20, 1999 | Letter from Jon Kosek, to Stan Field |
| January 2000 | Letter from Rosalind Carol |
| January 9, 2000 | Letter from Alan DeMartini to the Coastal Commission |
| January 10, 2000 | Letter from Peter J. Metropulos to the Coastal Commission |
| January 12, 2000 | Letter from Robin Winslow Smith, Sequoia Audubon Society to the Coastal Commission |
| January 13, 2000 | Letter from Rusty Areias, California Department of Parks and Recreation to Peter Douglas, Executive Director, Coastal Commission |
| January 20, 2000 | Letter from Karen Maki to Sara Wan, Coastal Commission |
| February 1, 2000 | Letter from Anna Neal to Sara Wan, Coastal Commission |
| August 3, 2000 | Letter from George Carman to Coastal Commission |

# EXECUTIVE SUMMARY

### Prior Commission Action

On January 14, 2000, the Commission opened a hearing on the substantial issue determination for the appeal. The Commission continued the hearing, suspending final action on the appeal pending discussions between the applicant and staff. In addition, on January 27, 2000, the applicant waived their right for a hearing to be set within 49 days of the filing of the appeal in order to develop and provide additional material for consideration prior to Commission action on the appeal. The appeal was scheduled to be heard by the Commission on August 9, 2000. The applicant postponed this hearing pending further discussions between the applicant and staff.

On February 16, 2001 the Commission found that the appeals submitted of the local government's action on this proposed project raised a substantial issue with respect to the grounds on which they were filed. The Commission postponed the de novo portion of the appeal hearing to a future meeting at the request of the applicant. This staff report represents the staff's recommendation to the Commission for action on the proposed project. The standard of review for the proposed project is the San Mateo County Local Coastal Program.

### Summary of Staff Recommendation

The project site is located on an 84-acre parcel adjacent to the inland side of Highway 1 near Ano Nuevo State Reserve in Southern San Mateo County. This is a highly scenic area with little existing development visible from the State Reserve or the highway. The site contains environmentally sensitive habitat areas (ESHA), including habitat suitable for the federally listed San Francisco garter snake and California red-legged frog. The proposed development is a 6,000-square-foot, 26-foot-high single family residence with a 700-square-foot detached accessory building, swimming pool and a 6,000-square-foot artificial pond.

The staff recommends that the Commission approve the coastal development permit for the proposed project with conditions. The recommended conditions restrict future development of the property to provide long-term protection of environmentally sensitive habitat areas and prohibit development in specified portions of the site. The staff also recommends elimination of the proposed artificial pond to avoid potentially significant adverse impacts to San Francisco garter snakes and California red-legged frogs. The recommended conditions also limit the height of the proposed residence to 18 feet and impose restrictions on landscaping, design, and lighting to minimize the visual impacts of the development.

The Motion to adopt the Staff Recommendation of Approval is found in Section 1.0.

## 1.0 STAFF RECOMMENDATION

The staff recommends approval of Coastal Development Permit Application No. A-2-SMC-99-066 with conditions.

### Motion

*I move that the Commission approve Coastal Development Permit Application No. A-2-SMC-99-066 pursuant to the staff recommendation.*

## Staff Recommendation of Approval

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

## Resolution to Approve the Permit

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of the certified San Mateo County LCP. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

## 1.1 Standard Conditions

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Interpretation. Any questions of intent of interpretation of any condition will be resolved by the Executive Director or the Commission.
4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

## 1.2 Special Conditions

## Staff Note

All previous conditions of approval imposed on the project by San Mateo County pursuant to an authority other than the California Coastal Act remain in effect (San Mateo County File Number PLN 1999-00296; see Exhibit 1). To the extent such San Mateo County conditions conflict with the Coastal Commission's conditions for Coastal Development Permit Number A-2-SMC-99-066, the applicant will be responsible for obtaining permit amendments to resolve any such conflicts.

**1. Future Development Deed Restriction**

**A.** ***Prior to issuance of the coastal development permit***, the applicant shall execute and record a deed restriction, subject to the review and approval of the Executive Director, stating that the

permit is only for the development authorized herein as described in the coastal development permit. Pursuant to Title 14 California Code of Regulations Section 13250(b)(6), the exemptions otherwise provided in Public Resources Code Section 30610(b) shall not apply on APN 089-230-220. Accordingly, any future improvements, including, but not limited to, construction of fences, gates, additions, or outbuildings that might otherwise be exempt under Zoning Code Section 6328.5, as well as repair and maintenance identified as requiring a permit under Zoning Code Section 6328.5, will require an amendment to this permit or will require an additional coastal development permit from San Mateo County.

**B.** The deed restriction shall include a legal description of the applicant's entire parcel. This document shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

**2. Submittal of Revised Plans**

**A.** ***Prior to issuance of the coastal development permit***, the applicant shall submit, for the review and approval of the Executive Director, revised project plans in satisfaction of the following requirements:

(1) The residence, accessory building, underground garage, driveway, and dog fencing shall be located within the designated building site as generally depicted in Figure 18.

(2) Construction of the artificial pond is prohibited.

(3) Fencing shall be installed around the perimeter of the designated building site and around the upland limit of the 300-foot buffer around the sag pond. The fencing shall be designed and maintained to prevent entry into sensitive habitat areas by dogs or people, but to allow free movement of frogs and snakes.

(4) No development shall occur within 100 feet of the swale identified in Figure 29.

(5) Access to the site shall be from the shortest, most direct route from the existing shared roadway behind the residence so that it is not visible. The driveway shall be no wider than 12 feet, and no shoulders shall be included.

(6) No development, including but not limited to installation of water and septic lines, shall be sited within 300 feet of the upland limit of the sag pond as generally depicted in Figure 29 or within the 300-foot-wide California red-legged frog dispersal corridors as generally depicted in Figure 29.

(7) Upon completion, all approved structures shall be screened 100 percent from views from Highway 1 and Año Nuevo State Reserve primarily by existing vegetation and landforms and through the construction of berms and native scrub vegetation as necessary. The revised plans shall be submitted with evidence, such as photo simulations, representative staking, or architectural renderings, that demonstrate conformity with this requirement.

(8) Berms shall be designed to appear part of the existing topography and shall be no higher than 12 feet from the existing (pre-development) grade.

(9) All structures, as measured from the existing (pre-development) grade to the peak of the roof shall be no higher than 18 feet.

(10)A 300-foot-wide California red-legged frog dispersal corridor shall be designated between the sag pond and each of the two ponds located to the east of the project site as generally depicted in Figure 29.

**B.** The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

**3. Landscaping**. ***Prior to issuance of the coastal development permit***, the applicant shall submit a landscaping plan for the review and approval of the Executive Director. The landscaping plan shall be prepared by a qualified professional with expertise in the field of landscaping with native plants, such as a landscape architect. The plan shall demonstrate the following:

**A.** All vegetation planted on the site shall consist of native, drought-tolerant plants. The plan shall specify plant species and mature heights of all trees and shrubs.

**B.** The location of all existing trees and shrubs on the property that will serve as landscape screening for the proposed structures. No existing vegetation on the site outside the building envelope or driveway shall be removed, except as provided for in the approved landscaping plan. Vegetation removal shall be limited to: 1) that which must be removed for fire safety as required in writing by the California Department of Forestry and Fire Protection; 2) clearing required for maintenance of permitted roads and trails and around permitted fences and structures; and 3) removal of invasive non-native plant species included on the most recent Exotic Pest Plant list prepared by the California Exotic Pest Plant Council. Any existing trees or vegetation providing screening, which do not survive must be replaced on a one-to-one or higher ratio for the life of the project. Any future removal of trees shall require a new coastal permit or an amendment to Coastal Permit No. A-2-SMC-99-066.

**C.** The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required

**4. Exterior Materials and Lighting Deed Restriction**

**A.** ***Prior to issuance of the coastal development permit***, the applicant shall execute and record a deed restriction, subject to the review and approval of the Executive Director, stating that all exterior materials and lighting for the life of the project shall be as unobtrusive as possible. Exterior materials, including roofs and windows, shall be non-reflective to minimize glare. Exterior lighting shall be unobtrusive, and limited to the minimum necessary for safety, shall be low wattage, non-reflective, shielded, and have a directional cast downward. All lighting, exterior and interior, must be placed, designed and shielded so that only the intended area is illuminated and off-site glare is fully controlled. Screening, fixture selection, and placement shall be such that no fixed direct light sources will be noticed by motorists on Highway 1.

**B.** The deed restriction shall include a legal description of the applicant's entire parcel. This document shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the

restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

**5. Sensitive Habitat**

**A.** Grading, installation of the water line, and foundation work shall not occur between November 1 and May 1 but shall be conducted between May 2 and October 31 to minimize potential impacts to San Francisco garter snakes and California red-legged frogs.

**B.** ***Prior to commencement of construction***, the applicant shall submit construct a four-foot high plywood exclusion fence around the work areas to prevent California red-legged frogs and San Francisco garter snakes from entering the area.

**C.** Two days prior to construction of the exclusion fence, the applicant shall survey the building site and construction access route for California red-legged frogs and San Francisco garter snakes. The surveys shall be conducted by a qualified biologist in accordance with USFWS and CDFG protocol (USFWS 1997).

**D.** Grading is prohibited at any time that either species is present in the construction area. A qualified biological monitor experienced with the San Francisco garter snake and California red-legged frog shall be present at the site during all grading activities. The biological monitor shall have the authority to halt all construction activities as necessary to protect habitat and individual animals. The monitoring shall be conducted in accordance with USFWS and CDFG protocol (USFWS 1997). The biological monitor shall complete daily monitoring reports that indicate the date and time of work, weather conditions, the monitoring biologist's name, project activity/progress, and any sensitive species observed. These reports shall be compiled and submitted to the Executive Director upon completion of grading work.

**E.** No grading or construction activities shall occur within 600 feet of nesting loggerhead shrikes or raptors. Where grading occurs between May 2 and September 30 or construction takes place between March 1 and September 30, a qualified biologist shall survey: (1) the coastal scrub habitat within 0.25 miles of each work area to determine if loggerhead shrikes or northern harriers are nesting in the scrub habitat and; (2) the mixed evergreen forest and oak woodland habitats within 0.25 miles of each work area to determine if other special status raptor species (e.g. Coopers hawk, sharp-shinned hawk) are nesting there. The surveys shall be conducted within 30 days prior to grading or construction and shall be submitted for review and approval of the Executive Director. If active nests are found, no grading or construction work shall occur within 600 feet of the nests until all young have fledged.

**6. Conservation Easement**

**A.** No development, as defined in San Mateo County LCP Policy 1.2, or grazing, diversion or impoundment for irrigation or other agricultural activities shall occur in the sag pond or the surrounding area within 300 feet of the upland limit of riparian vegetation associated with the sag pond as generally depicted in Figure 18 except for:

(1) Removal of vegetation for fire safety as required in writing by the California Department of Forestry and Fire Protection or removal of invasive non-native plant species included on the most recent Exotic Pest Plant list prepared by the California Exotic Pest Plant Council.

(2) Habitat management activities in accordance with an approved Habitat Conservation Plan.

**B.** ***Prior to issuance of the coastal development permit,*** the applicant shall execute and record a document, in a form and content acceptable to the Executive Director, irrevocably offering to dedicate to a public agency or private association approved by the Executive Director an open space and conservation easement for the purpose of habitat conservation. Such easement shall include the sag pond and all areas within 300 feet of the upland limit of riparian vegetation associated with the sag pond, as generally depicted in Figure 18. The recorded document shall include legal descriptions of both the applicant's entire parcel and the easement area. The recorded document shall also reflect that development in the easement area is restricted as set forth in this permit condition.

**C.** The offer shall be recorded free of prior liens and encumbrances that the Executive Director determines may affect the interest being conveyed. The offer shall run with the land in favor of the People of the State of California, binding all successors and assignees, and shall be irrevocable for a period of 21 years, such period running from the date of recording.

**7. <u>Open Space Deed Restriction</u>**

**A.** No development, as defined in LCP Policy 1.2, shall occur within the dispersal corridors as generally depicted on Figure 18, except the following:

(1) Removal of vegetation for fire safety as required in writing by the California Department of Forestry and Fire Protection or removal of invasive non-native plant species including removal of eucalyptus debris and saplings and those plants identified in the most recent Exotic Pest Plant list prepared by the California Exotic Pest Plant Council.

(2) Habitat management activities in accordance with an approved Habitat Conservation Plan.

(3) Consistent with Special Condition 5, installation of waterline beneath the portion of the dispersal corridor encompassing the road.

B. ***Prior to issuance of the coastal development permit,*** the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, reflecting the above restriction on development in the designated open space. The deed restriction shall include legal descriptions of both the applicant's entire parcel and open space area. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

**8. <u>Construction Period Erosion Control Plan</u>**

**A. Erosion Control Plan**

***Prior to issuance of the coastal development permit,*** the applicant shall provide, for the review and approval of the Executive Director, an Erosion Control Plan to reduce erosion and retain sediment on-site during construction. The plan shall be designed to minimize the potential sources of sediment, control the amount of runoff and its ability to carry sediment by diverting incoming flows and impeding internally generated flows, and retain sediment that is picked up on the project site through the use of sediment-capturing devices. The plan

shall also limit application, generation, and migration of toxic substances, ensure the proper storage and disposal of toxic materials, and apply nutrients at rates necessary to establish and maintain vegetation without causing significant nutrient runoff to surface waters. The Erosion Control Plan shall incorporate Best Management Practices (BMPs) as specified below.

(1) Erosion & Sediment Source Control
   (a) Sequence construction to install sediment-capturing devices first, followed by runoff control measures and runoff conveyances. Land clearing activities should only commence after the minimization and capture elements are in place.
   (b) Time the clearing and grading activities to avoid the rainy season (November 1 through May 1).
   (c) Minimize the area of bare soil exposed at one time (phased grading).
   (d) Clear only areas essential for construction.
   (e) Within five days of clearing or inactivity in construction, stabilize bare soils through either non-vegetative BMPs, such as mulching or vegetative erosion control methods such as seeding with native or non-invasive species. Vegetative erosion control shall be established within two weeks of seeding/planting.
   (f) Construction entrances should be stabilized immediately after grading and frequently maintained to prevent erosion and control dust.
   (g) Control wind-born dust through site watering and/or the installation of wind barriers such as hay bales. Site watering shall be monitored to prevent runoff.
   (h) Place stockpiled soil and/or other construction-related material a minimum of 200 feet from any drainages. Stockpiled soils shall be covered with tarps at all times of the year.
   (i) Excess fill shall not be disposed of in the Coastal Zone unless authorized through either an amendment to this coastal development permit or a new coastal development permit.

(2) Runoff Control and Conveyance
   (a) Intercept runoff above disturbed slopes and convey it to a permanent channel by using earth dikes, perimeter dikes or swales, or diversions.
   (b) Provide protection for runoff conveyance outlets by reducing flow velocity and dissipating flow energy.

(3) Sediment-capturing Devices
   (a) Install stormdrain inlet protection that traps sediment before it enters the storm sewer system. This barrier could consist of filter fabric, straw bales, gravel, or sand bags.
   (b) Install sediment traps/basins at outlets of diversions, channels, slope drains, or other runoff conveyances that discharge sediment-laden water. Sediment traps/basins shall be cleaned out when 50 percent full (by volume).
   (c) Use silt fence and/or vegetated filter strips to trap sediment contained in sheet flow. The maximum drainage area to the fence should be 0.5 acre or less per 100 feet of fence. Silt fences should be inspected regularly and sediment removed when it reaches one-third the fence height. Vegetated filter strips should have relatively flat slopes and be vegetated with erosion-resistant species.

(4) Chemical Control
   (a) Store, handle, apply, and dispose of pesticides, petroleum products, and other construction materials properly.
   (b) Establish fuel and vehicle maintenance staging areas located at least 100 feet from all drainage courses, and design these areas to control runoff.
   (c) Develop and implement spill prevention and control measures.
   (d) Provide sanitary facilities for construction workers.
   (e) Maintain and wash equipment and machinery in confined areas specifically designed to control runoff. Washout from concrete trucks should be disposed of at a location not subject to runoff and more than 100 feet away from a drainage course, open ditch, or surface water.
   (f) Provide adequate disposal facilities for solid waste, including excess asphalt, produced during construction.
   (g) Develop and implement nutrient management measures. Properly time applications, and work fertilizers and liming materials into the soil to depths of four to six inches. Reduce the amount of nutrients applied by conducting soil tests to determine site nutrient needs.

**B. Erosion Control Monitoring and Maintenance**

(1) Throughout the construction period, the applicants shall conduct regular inspections of the condition and operational status of all structural BMPs provided in satisfaction of the approved Erosion Control Plan. Major observations to be made during inspections shall include: locations of discharges of sediment or other pollutants from the site; BMPs that are in need of maintenance; BMPs that are not performing, failing to operate, or inadequate; and locations where additional BMPs are needed.
(2) Authorized representatives of the Coastal Commission and/or San Mateo County shall be allowed property entry as needed to conduct on-site inspections throughout the construction period.
(3) Sediment traps/basins shall be cleaned out at any time when 50 percent full (by volume).
(4) Sediment shall be removed from silt fences at any time when it reaches one-third the fence height.
(5) All pollutants contained in BMP devices shall be contained and disposed of in an appropriate manner.

**C.** The applicants shall be fully responsible for advising construction personnel of the requirements of the Erosion Control Plan.

**D.** The permittee shall undertake development in accordance with the final Erosion Control Plan approved by the Executive Director. No proposed changes to the approved final Erosion Control Plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

**9. <u>Post-Construction Stormwater Pollution Prevention</u>**

**A. Stormwater Pollution Prevention Plan**

(1) ***Prior to issuance of the coastal development permit***, the applicant shall submit to the Executive Director for review and written approval, a Stormwater Pollution Prevention Plan with final drainage and runoff control measures, including supporting calculations.

The plan shall demonstrate that runoff from the project shall be prevented from entering the swale and downstream wetland or any other riparian or wetland area. The plan shall detail specific measures to reduce runoff such as vegetative buffers, grassy swales, and pop-up drainage emitters. For the life of the project, runoff from all roofs, decks, and other impervious surfaces and slopes on the site shall be collected and discharged to avoid ponding or erosion either on or off the site. Splashguards shall be installed at the base of all downspouts. The plan shall be prepared by a licensed engineer and shall incorporate structural and non-structural Best Management Practices (BMPs) designed to control the volume, velocity and pollutant load of stormwater leaving the developed site after completion of construction. The plan shall be reviewed and approved by the consulting engineering geologist to ensure the plan is in conformance with geologist's recommendations. The plan shall incorporate structural, flow-based, post-construction BMPs (or suites of BMPs) designed to treat or filter stormwater runoff from the project site for each storm event, up to and including the 85th percentile, 1-hour storm event, with an appropriate safety factor, prior to the runoff's entry into any stormwater conveyance systems or surface water bodies and shall assure that runoff will be conveyed offsite in a non-erosive manner.

(2) The stormwater pollution prevention plan shall incorporate the BMPs described below:

(a) Native, drought-tolerant vegetation shall be selected, in order to minimize the need for fertilizer, pesticides/herbicides, and excessive irrigation.

(b) Throughout the project site, where irrigation is necessary, the system must be designed with efficient technology. At a minimum, all irrigation systems shall have flow sensors and master valves installed on the mainline pipe to ensure system shutdown in the case of pipe breakage. Irrigation master systems shall have an automatic irrigation controller to ensure efficient water distribution. Automatic irrigation controllers shall be easily adjustable so that site watering will be appropriate for daily site weather conditions. Automatic irrigation controllers shall have rain shutoff devices in order to prevent unnecessary operation on rainy days.

**B. Stormwater Pollution Prevention Maintenance and Monitoring**

(1) The plan shall include provisions for maintaining the drainage system, including structural BMPs, in a functional condition throughout the life of the approved development. Such maintenance shall include the following:

(a) All structural BMPs shall be inspected prior to the start of the wet season (no later than October 15$^{th}$), after the first storm of the wet season, and monthly thereafter until April 30$^{th}$.

(b) All BMP traps/separators and/or filters shall be cleaned prior to the onset of the wet season and no later than October 15$^{th}$ each year. All pollutants contained in BMP devices shall be contained and disposed of in an appropriate manner.

(c) Should any of the project's surface or subsurface drainage/filtration structures or other BMPs fail or result in increased erosion, the applicants or successor-in-interest shall be responsible for any necessary repairs to the drainage/filtration system and BMPs and restoration of the eroded area. If repairs or restoration are necessary, prior to the commencement of such repair or restoration work, the applicants shall submit a repair and restoration plan to the Executive Director to determine if an amendment or new coastal development permit is required to authorize such work.

(2) The permittees shall conduct an annual inspection of the condition and operational status of all structural BMPs provided in satisfaction of the approved stormwater pollution prevention plan. The results of each annual inspection shall be reported to the Executive Director in writing by no later than June 30th of each year following the completion of construction for three years. Major observations to be made during inspections and reported shall include: locations of discharges of sediment or other pollutants from the site, BMPs that are in need of maintenance, BMPs that are not performing, failing to operate, or inadequate, and locations where additional BMPs are needed. Authorized representatives of the Coastal Commission and/or the San Mateo County shall be allowed property entry as needed to conduct on-site inspections of the detention basin and other structural BMPs.

(3) Non-routine maintenance activities that are expensive but infrequent shall be performed as needed based on the results of the monitoring inspections described above.

C. The permittee shall undertake development in accordance with the final Stormwater Pollution Prevention Maintenance and Monitoring Plan approved by the Executive Director. No proposed changes to the approved final plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

**10. Grading**

A. ***Prior to issuance of the coastal development permit***, the applicant shall submit a final proposed grading plan for review and approval by the Executive Director. Said plan shall conform to the requirements of Special Conditions 2, 5, and 8 above.

B. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

**11. Helicopter or Other Aircraft Deed Restriction**

A. ***Prior to issuance of the coastal development permit***, and as indicated in the proposed project description, the applicant shall execute and record a deed restriction, subject to the review and approval of the Executive Director, which states that there will be no use of helicopters or other aircraft on the property for the life of the development approved by the coastal development permit.

B. The deed restriction shall include a legal description of the applicant's entire parcel. The deed restriction document shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Coastal Commission-approved amendment to the coastal development permit unless the Executive Director determines that no amendment is legally required.

# 2.0 FINDINGS AND DECLARATIONS

The Commission hereby finds and declares as follows:

## 2.1 Project Location and Site Description

The proposed project is located inland of Highway 1, about ten miles south of Pescadero, in the unincorporated portion of San Mateo County, California (Figure 1). The proposed building site is on the top of a southwest-facing hill overlooking Año Nuevo State Reserve (Figure 2). The Assessor's Parcel Number is 089-230-220 as shown on Figure 3. The property is rectangular, approximately 1,000 feet in width along the front and rear property lines and 3,000 feet in length along the side property lines.

The property is designated in the County's LUP as Agriculture and is zoned Planned Agricultural District (PAD). The proposed single-family dwelling complies with the PAD zoning of the lands within the coastal zone, which allows one density credit or one residential unit on the property. The proposed development conforms with the height limits and setback requirements for the PAD zoning district. A single-family residence is allowed within the PAD with the issuance of a Planned Agricultural Permit. The substantive criteria for issuance of a Planned Agricultural Permit (Section 6355 of San Mateo County's Zoning Regulations) address protection of agricultural uses on land in the PAD. The criteria includes minimizing encroachment on land suitable for agricultural use, clustering development, availability of water supply, preventing or minimizing division or conversion of agricultural land, and retention of agricultural land within public recreation facilities.

The elevation of the parcel ranges from approximately 160 feet above mean sea level (msl) along Highway 1 in the western portion of the parcel and 390 feet above msl in the eastern portion of the site along the boundary with Santa Cruz County. The property has flat to gradual slopes of approximately 10 percent on most of the parcel with a gradual uphill grade to the east, and steeper slopes of approximately 25 percent along a ravine that crosses the lot (see Figure 4). The proposed building site is on a flat terrace between 380 and 390 feet above msl.

The parcel is within the central region of the Coast Ranges Geomorphic Province, and is underlain by marine and continental sedimentary rock units that have been deposited, folded, faulted, and uplifted to form the Santa Cruz Mountains (Romig Consulting Engineers 1999). The active San Gregorio Fault crosses the parcel and lies parallel to and approximately 800 feet from Highway 1. The Alquist-Priola Special Studies Zone boundary extends approximately 250 feet south of the fault and approximately 600 feet north of the fault (Figure 5). The parcel is within an active seismic area and may be subject to strong ground shaking. The site also is located within an ancient landslide complex approximately 4,000 feet in length and 1,500 feet in width. Romig Consulting Engineers (1999) did not observe any indications of any recent activity of the slide, and concluded that the landslide movement has ceased, and would be unlikely to recur. The potential for liquefaction at the site is low (Romig Consulting Engineers 1999). The Commission's staff geologist has reviewed the Romig report and concurs with these conclusions.

Soils at the site are primarily Santa Lucia loam, with Lockwood loam soils in the western portion of the parcel between Highway 1 and the pond, and Dublin clay soils in the ravine (Figure 6). Most of the Santa Lucia soils pose slight to moderate erosion potential, with those in the southeastern portion of the lot posing moderate to high erosion potential. The erosion hazard of the Lockwood and Dublin soils is slight (US Department of Agriculture 1961). The 14 acres in

which the Lockwood soils are found are considered prime agricultural soils. In addition, as historic grazing land and land which has the potential to be used for grazing in the future, these soils would be considered "lands suitable for agriculture" under the definition in LUP Policy 5.3, which includes "lands on which existing or potential agricultural use is feasible, including dry farming, animal grazing, and timber harvesting."

The parcel includes diverse habitat types (Figure 29). Currently, a majority of the property is annual grassland with scattered shrubs and tree saplings due to earlier use of the site for agricultural activities. Riparian wetland, pond, and coastal scrub vegetation are found in the depressions. Eucalyptus forest borders the northern and eastern property boundaries and mixed stands of Monterey pine and Douglas fir border the southern boundary. These habitats support many plant and wildlife species, including some special status species. Special status wildlife species that occur in nearby habitat include San Francisco garter snake, a federally- and state listed species; California red-legged frog, a federally-listed threatened species; and western pond turtle, a federal species of concern. One California red-legged frog was observed in the pond on the western portion of the property. A yellow warbler, a California Species of Special Concern, was also observed in the willows adjacent to the pond (Thomas Reid Associates 1999). Monarch butterflies, which are included in California Department of Fish and Game's Special Animals list, have been recorded within the Monterey pine grove just off the southeastern edge of the property. The eucalyptus and Monterey pine woodland on the property provide potential roosting habitat for this species. The native Monterey pine, itself, is listed as a federal species of concern and a California Native Plant Society's List 1B species ("Plants Rare, Threatened, or Endangered in California and elsewhere"). The native range for Monterey pine is limited to the stands near Año Nuevo, including the one bordering the parcel, and three other isolated locations. The Año Nuevo stands are the northernmost extent of the native Monterey pine forests. These pines not only have a limited distribution but also are threatened by a fungus, pitch canker. The Año Nuevo stand, estimated to have once covered about 18,000 acres, has been reduced to approximately 1,500 to 2,000 acres (Staub, staff communication).

An archaeological survey of the northeastern portion of the parcel and along a proposed water pipeline was conducted by a professional archaeologist in June and July of 1999, as recommended by the California Historical Resources Information Center at Sonoma State University. No prehistoric cultural materials or historic materials were found. Two locations for trenching could not be surveyed because of dense vegetation (on the west side of the sag pond and through the swale in the northern portion of the property), and the consultant recommended that a professional archaeologist be present to monitor the unsurveyed areas if excavation begins (San Mateo County 1999a).

## 2.2 Project Description

The project as originally proposed and approved by the County consisted of construction of a two-story, 6,500-square-foot single-family residence with attached four-car garage, 600-square-foot detached guest house, 7,500 square-foot pond, lap pool, gazebo with a spa, and driveway, plus installation of a septic system and water pipeline on a legal 84.49-acre lot (Figures 8 through 11: first and second floor plans).

Since the project was initially approved by San Mateo County and appealed to the Commission, the applicant has made changes to the project. Coastal Commission staff discussed with the applicant that one of the primary objectives in making the project consistent with the LCP would

be to site it in the least visible location on the 84.48-acre parcel, consistent with all other LCP policies, and reduce the size and height of the house so that its visual impact is minimized. In response to this and other scenic resources policies, the applicant revised his proposed project and reviewed alternative sites (see Figure 15) suggested by the Coastal Commission staff. For instance, the primary building mass has been moved 255 feet to the southeast and the bedroom wings have been placed behind the living room, thereby reducing the frontage of the main portion of the house from 140 feet to 90 feet. The colonnade between the main portion of the house and the accessory building has been eliminated and the accessory building has been placed behind the main house. The height of the house from ground level has been lowered from 36 feet to 26 feet by placing 10 feet of the house underground. The house would still be located at the top of the property at approximately 380 to 390 feet above msl.

The applicant corrected the calculations for the ground floor area, which is proposed to be 4,500 square feet. Thus, the proposed residence is 6,000 square feet rather than 6,500 square feet as approved by the County (Field 2000a). The accessory building has been enlarged to 700 square feet from 600 square feet. The patio adjacent to the accessory building has been removed, reducing the patios to 4,000 square feet. To accommodate construction of a berm to screen the development from public view, the artificial pond has been reduced from 7,500 square feet to 6,000 square feet. The applicant has deleted the originally proposed 10,000 square-foot cultivated garden and gazebo. Table 1 shows the area of disturbance for the proposed project.

**Table 1. Area of Disturbance for the Proposed Project**

| **Type of Disturbance** | **Square Feet** |
|---|---|
| Residence Living Space | 4,500* |
| Accessory building | 700* |
| Garage | 800[1] |
| Septic System | 820 |
| Pool | 160 |
| Patios | 4,000* |
| Decks | 780 |
| Pond | 6,000* |
| Walkway | 1,000 |
| Driveway | 3,200* |
| TOTAL | 21,960 |

Source: Field 2001a and 2001b.

*These numbers have been corrected or revised for the de novo review as explained above in the text.

[1]The garage is a total of 1,500 square feet. Because 700 feet of it would be below the accessory building, only the additional 800 feet is included as disturbance.

The proposed garage, utilities, lap pool, patios, and decks, which comprise an additional 7,240 square feet of floor space, are not included in the 6,000 square feet of living space. The living space includes two floors, a 4,500 square foot ground floor and a 1,500 square foot second floor. The second floor is not included in Table 1 below because it would not involve any additional disturbance beyond that required for the first floor. Similarly, the 800 square-foot utilities area is not included in the area of disturbance because it would be located underground the patio. As noted in Table 1, 700 square feet of the garage is not included as disturbance because it would be beneath the 700-square-foot accessory building. The proposed pond and walkway comprise another 7,000 square feet of developed area. The driveway would be 200 feet long, 16 feet wide

(12 feet wide with two-foot shoulders on either side), for a total of 3,200 square feet. The gross disturbed area would be 21,160 square feet.

At its highest elevation from natural grade, the house would be approximately 26 feet in height (Figure 12). A water line and septic system are proposed on-site, and an existing well,[1] as shown in Figure 13, would be used. Well A does not have adequate capacity to meet fire regulations (Stan Field, staff communication). An approximately 2,800-foot long water line would connect from a well pump at the base of the parcel near Highway 1 to a well at the top of the parcel. Another water line, approximately 20 feet long would connect from the well at the top of the site to the house. Access to the site is provided by an existing private access road from Highway 1 that serves several properties on the hill. A 200-foot long driveway would be extended from the shared road to the proposed house. The proposed residence and accessory building have siding and roof materials that are colored to match the eucalyptus trees and are a modern design.

The 6,000 square foot landscape pond feature would be located adjacent to the house between the house and the berm. The pond would be concrete-lined and less than 18 inches deep. Native vegetation would be used within and around the pond. Aquatic vegetation would be planted within the pond feature and upland vegetation around the outside. The pond would not have a lip that would trap amphibians within the pond if they enter it. Water for the pond would come from groundwater. The pond water would be recirculated and filtered to reduce the potential for algal growth. No chemicals would be used in treating the pond water. The pond would have a drain system so that the water can be drained once a year for cleaning. The draining would assist with controlling the occurrence of any bullfrogs in the pond. The pond would not be stocked with fish.

The applicant has also revised the project to plant a row of Monterey cypresses on the lower southeasterly ridge of the property to partially screen the development from Highway 1. There is no specific planting plan and the size of the plantings when installed has not been determined, but some possibilities are described in the arborist's report (Fong 2000a). Under ideal or good growing conditions the cypress would grow approximately 3.5 feet per year (Fong 2000a).

The applicant also proposes to construct a berm and lower the height above natural grade of the residence by ten feet through excavation (Figures 16 and 17). A berm would be placed immediately in front of and to the northeast of the residence and reflecting pond. The southeastern portion of the house would remain exposed to allow a view corridor from the house. The berm would be a maximum of 20 feet in height over a short distance and would taper off to merge with the existing topography. The berm would be approximately 230 feet long and would be constructed from soil excavated for the house and pond (6,000 to 7,000 cubic yards of cut). The berm would be planted with native grassland species and coyote brush (Field 2001b). The berm would screen the house (except for the southeastern view corridor area) from Highway 1, but to screen the house from the dunes at Año Nuevo six to eight foot high vegetation would be necessary. The soil removed from the house site and used for creation of the berm would lower the ground level at the house site from 385 feet to 375 feet (Figure 16).

[1] An application to drill an agricultural well on the parcel was filed on July 1997 (File No. CDP 97-0015). A well permit was issued from County Environmental Health Division (Permit Number 13016) in November 1997. The well was certified at 15 gallons per minute. In May 1998 the County approved an application to convert the agricultural well to a domestic well (File No. CDP 97-0071).

In addition to the changes described above, the applicant also amended the project description to indicate that there would be no use of helicopters or other aircraft on the property for the life of the development approved by the coastal development permit.

## 2.3 Sensitive Habitats

**The Commission approves the permit application because the proposed project, as conditioned, will avoid significant adverse impacts to sensitive habitats.**

### 2.3.1 Issue Summary

The site includes habitat suitable for the San Francisco garter snake and the California red-legged frog, as well as habitat for other sensitive species, wetlands, and riparian areas. The applicant proposes to locate development adjacent to sensitive habitat in a manner inconsistent with the habitat protection policies of the LCP. The staff therefore recommends special conditions requiring the applicant to eliminate the proposed artificial pond as well as other measures necessary to avoid significant adverse impacts to sensitive habitat areas.

### 2.3.2 Standard of Review

Chapter 7 of the LCP contains policies that are very protective of sensitive habitats. In general, these LCP policies define and protect sensitive habitats, allowing only a limited type and amount of development in or near these areas. The full text of LCP policies discussed in this section are cited in Appendix B.

LUP Policy 7.1 defines sensitive habitats, which "include, but are not limited to, riparian corridors, wetlands, marine habitats, sand dunes, sea cliffs, and habitats supporting rare, endangered, and unique species." LUP Policy 7.3 provides development standards for projects within or adjacent to sensitive habitats. The uses permitted in sensitive habitat are listed in LUP Policy 7.4. LUP Policy 7.5 describes appropriate permit conditions to protect such areas from adverse impacts.

LUP Policies 7.7 through 7.13 address riparian corridors and their buffer zones and LCP Policies 7.14 through 7.19 address wetlands and their buffer zones.

LUP Policies 7.32 through 7.36 address designation of habitats, permitted uses, permit conditions, and preservation of critical habitats that apply to likely rare and endangered species on the site. LUP policies 7.34 and 7.36 require that a qualified biologist prepare a report that discusses the natural and physical requirements of all endangered species on the property. LCP policy 7.36 specifically protects San Francisco garter snake habitat, including "migration" or movement corridors.

### 2.3.3 Discussion

#### *Introduction*

Much of the project site is sensitive habitat (Figure 18). The applicant has conducted a number of surveys and consulted with specialists in various biological fields that have documented the presence of habitat for listed species and other special status species and wetlands on the property (Thomas Reid and Associates 2000a, 2000b, and 2000c, Fong 2000a and 2000b, Staub 2000 and 2001, Dayton 2000, McGinnis 2000). The sag pond in the southwestern portion of the site, its riparian fringe, and the entire grassland-scrub savanna, which covers most of the center

portion of the site, is considered critical habitat for the San Francisco garter snake and California red-legged frog under the Federal Endangered Species Act (USFWS 2001, McGinnis 2000). On site visits with United States Fish and Wildlife Service (USFWS) and California Department of Fish and Game (CDFG), representatives from both agencies concurred with this assessment of habitat. USFWS has also written a letter addressing its position on the possible effects of the proposed project on the San Francisco garter snake and California red-legged frog (Exhibit 3). Wetlands on the site include the sag pond, another smaller pond in the northern portion of the site, and two swales with riparian and coastal scrub vegetation. The sag pond was probably formed by seismic activity in the distant past (at least 2,000 years) rather than damming of drainage ravines as was done to create many other ponds in the vicinity. It is a particularly important wetland feature because it provides critical habitat for one of the oldest San Francisco garter snake and California red-legged frog populations in the area (McGinnis 2000). A California red-legged frog was observed during a survey at the sag pond (Thomas Reid Associates 1999).

Monterey pine forest is located along the eastern property boundary. The applicant's forester also observed seven mature Monterey pines (six-inch or greater diameter breast height [dbh]) in the eucalyptus grove in the northeastern corner of the site (see Exhibit 4). An additional 36 Monterey pine saplings (dbh of less than six inches) were observed in the eucalyptus grove and in the adjacent grassland (Staub 2001). One Monarch butterfly, which is included in California Department of Fish and Game's Special Animals list, was observed in the willows at the entrance to the property near Highway 1 (Dayton 2000). Monarchs were also observed in eucalyptus trees on the northern boundary of the site (Thomas Reid Associates 2000a). The Monarch's winter roosting sites, including eucalyptus groves, are considered sensitive habitat. The grove in the northern portion of the site does not provide such habitat due to its exposure to wind (Dayton 2000)

In addition, the property provides potential habitat for several other special status species. A yellow warbler was observed in the willows adjacent to the sag pond. No other special status species besides the California red-legged frog, Monarch butterfly, and yellow warbler were observed at the property. No special status plant species are expected to be found in the grassland areas where the proposed and alternative development sites are located. Sensitive species observed at the site or likely to use habitat at the site are listed below:

| Common Name | Scientific Name | Federal Status | State Status | Presence at Site |
|---|---|---|---|---|
| California red-legged frog | *Rana aurora draytonii* | Threatened | Special Concern Species | Confirmed |
| San Francisco garter snake | *Thamnophis sirtalis tetrataenia* | Endangered | Endangered | Likely |
| Western pond turtle | *Clemys marmorata* | Species of Special Concern | Special Concern Species | Likely |
| Yellow warbler | *Dendroica petechia* | None | Special Concern Species | Confirmed |
| Loggerhead shrike (nesting) | *Lanius ludovicianus* | Species of Special Concern | Special Concern Species | Likely |
| Cooper's hawk (nesting) | *Accipiter cooperi* | None | Special Concern Species | Likely |

| | | | | |
|---|---|---|---|---|
| Sharp-shinned hawk (nesting) | *Accipiter striatus* | None | Special Concern Species | Likely |
| Northern harrier (nesting) | *Circus cyaneus* | None | Special Concern Species | Likely |
| Monarch butterfly (winter roosting) | *Danaus plexipus* | None | None | Confirmed |

Source: CDFG 2001; Dayton 2000; Thomas Reid Associates 1999, 2000a.

Any portion of the site that provides habitat for the special status species listed above is considered sensitive habitat in accordance with LUP Policy 7.1, which defines sensitive habitat, among additional factors, as "habitats containing or supporting 'rare and endangered' species as defined by the State Fish and Game Commission. In particular, the areas considered critical habitat for the San Francisco garter snake and the red-legged frog are sensitive habitat. The sensitive habitats map for the LCP indicates that rare, endangered, or unique reptiles and amphibians and plants have been found near the Lee property. LUP Policy 7.36 includes the riparian and wetland habitats as well as migration corridors of the San Francisco garter snake as sensitive habitat. The wetlands and riparian areas are also categorically defined in the LCP as sensitive habitats (LUP Policies 7.1, 7.7, 7.8, 7.14, and 7.15).

***Monterey Pine Forest***

Monterey pine is listed as a federal species of concern and a California Native Plant Society's List 1B species ("Plants Rare, Threatened, or Endangered in California and elsewhere"). The native range for Monterey pine is limited to the stands near Año Nuevo, including the one bordering the parcel, and three other isolated locations. The Año Nuevo stands are the northernmost extent of the native Monterey pine forests. These pines not only have a limited distribution but also are threatened by a fungus, pitch canker. The Año Nuevo stand, estimated to have once covered about 18,000 acres, has been reduced to approximately 1,500 to 2,000 acres (Staub, staff communication). Native Monterey pine found near the San Mateo-San Cruz County line is considered a unique species under LUP Policy 7.48, and habitat for unique species is considered sensitive habitat under LUP Policy 7.1. Therefore, the Monterey pine forest on the site is also considered sensitive habitat in accordance with LUP Policy 7.1.

***California red-legged frogs and San Francisco Garter Snakes***

***Background***

California red-legged frogs have been extirpated or nearly extirpated from over 70 percent of their former range and are federally listed as threatened. Habitat loss, competition with and direct predation by exotic species, such as bullfrogs, and fragmentation of habitat due to encroachment of development are the primary causes for the decline of this species throughout its range. The remaining populations are primarily in central coastal California and are found in aquatic areas that support substantial riparian and aquatic vegetation and lack non-native predators. Habitat for red-legged frogs is typically deep-water pools with fringes of dense, emergent vegetation or dense shrubby vegetation, such as cattails and willows. Frogs hibernate in small mammal burrows, leaf litter, or other moist sites in or near (within a few hundred feet of) riparian areas (USFWS 1994, USFWS 1996, cited in NatureServe 2000). According to the final rule designating critical habitat for the red-legged frog, the project site is within critical habitat Unit 14, San Mateo-Northern Santa Cruz Unit (50 CFR Part 17, March 13, 2001). This

rule provides guidance on the physical and biological features that are considered essential to the conservation of the species, as cited below:

> *In summary, the primary constituent elements consist of three components. At a minimum, this will include two (or more) suitable breeding locations, a permanent water source, associated uplands surrounding these water bodies up to 90 m (300 ft) from the water's edge, all within 2 km (1.25) miles of one another and connected by barrier-free dispersal habitat that is at least 90 m (300 ft) in width. When these elements are all present, all other suitable aquatic habitat with 2 km (1.25 mi.), and free of dispersal barriers, is also considered critical habitat.*

The sag pond provides critical habitat for California red-legged frogs. During a field survey on July 16, 1999, one adult red-legged frog was observed on the edge of the pond and another was heard calling from the willows near the pond. This pond provides important breeding habitat for the frog (Thomas Reid Associates 1999). McGinnis (2000) describes the importance of this pond and adjacent habitat:

> *Indeed, if the assumption that the project site pond is actually an old sag pond, the SFGS* [San Francisco garter snake] *and CRF* [California red-legged frog] *population at this site may be one of the oldest in the area. My 1989 life history study of the SFGS for the California Department of Fish and Game (CDFG) was conducted at two sag ponds on a ranch near La Honda, CA. These were chosen because sediment core samples analyzed at Stanford University revealed that these ponds were at least 2,000 years old. I and CDFG herpetologist John Brode felt the SFGSs at this site would best represent the entire current population, and this may also be true for the project pond site.*

In addition, red-legged frogs have been observed at three nearby ponds. The first pond is on the Hinman property approximately .5 mile to the northeast the sag pond on the Lee property. The second pond is on the Pfluke property (farm pond), approximately 1,000 feet north of the Hinman pond, and again approximately .5 mile from the sag pond. The third pond is approximately 550 feet to the north of the sag pond (Figure 19). Another pond in Año Nuevo Creek, which is 1,500 feet southwest of the Hinman pond, may provide habitat for red-legged frogs, but the species has not been observed there. Furthermore, there is an in-stream pond approximately 1,500 feet to the southwest of the Hinman pond in Año Nuevo Creek; no red-legged frogs have been identified there, but this may provide habitat as well. The land between the triad of ponds where frog have been observed (sag pond, Hinman pond, and farm pond) and which contains no structures between the ponds or dispersal barriers, provides exactly the dispersal habitat that is considered critical habitat by USFWS in its final rule. According to the final rule designating critical habitat for the red-legged frog:

> *Frogs will make long-distance straight-line, point-to point movements, rather than using corridors for moving between habitats.*
>
> *Dispersing adult frogs in northern Santa Cruz County traveled distances from 0.4 km (0.25 mi) to more than 3.2 km (2 mi) without apparent regard to topography, vegetation type, or riparian corridors.*

When lines are drawn between the ponds with a minimum width of 300 feet, most of the Lee property northeast of the sag pond is considered critical habitat (Figure 18). Research on terrestrial movements of California red-legged frogs in Santa Cruz County support this

description of the straight-line path between aquatic habitats. Researchers observed that most radio-tagged individuals moved in approximately straight lines between destinations. Maximum distances recorded for radio-tagged California red-legged frogs though various upland habitats were approximately 5,580 feet through grass/scrub rangeland, 2,950 feet through coniferous forest, and 1,640 feet through agricultural land. The distances of 2,400 and 2,550 between the sag pond and Hinman and farm ponds, respectively, across primarily grass/scrub rangeland are well within this range. Although eucalyptus groves that are within the straight-line paths were not specifically included in this study, Commission staff spoke with two of the researchers and they both agreed that eucalyptus groves of 135 feet to 390 feet in width would not present a barrier to frog movement (Norman Scott, staff communication; John Bulger, staff communication). These researchers also agreed that the increase in elevation from the sag pond to the other ponds of 210 to 220 feet would also not present a problem for frog movement. Two of the frogs in the Santa Cruz study traveled over 590 feet with a 77 percent elevation gain. One frog traveled in a straight line over 9,187 feet that included over 2,000 feet upward and downward in elevation by crossing topographic contours over five drainages (Bulger, Scott, and Seymour, unpublished).

The proposed house site is located outside of the straight-line dispersal corridors between the ponds. Although frogs may wander into the area where the house is proposed if the house were not present, avoiding the proposed house should not present a problem for frogs (Norman Scott, staff communication).

San Francisco garter snakes are federally and state listed as endangered. The San Francisco garter snake's preferred habitat is densely vegetated ponds near open hillsides where it can sun itself, feed, and find cover in rodent burrows. The species is extremely shy, difficult to locate and capture, and quick to flee to water when disturbed. On the coast, the snake hibernates during winter in rodent burrows, and may spend the majority of the day during the active season in the same burrows. San Francisco garter snakes have been found up to 590 feet away from water in rodent burrows on dry, grassy hillsides (NatureServe 2000). McGinnis (2000) recorded, in 1988, one adult male traveling over a ridgeline between two sag ponds that were approximately 1,320 feet apart.

California red-legged frogs are an essential prey species to the San Francisco garter snake, and the snakes have not been found in areas where red-legged frogs are absent. In addition, newborn and juvenile San Francisco garter snakes depend heavily on Pacific tree frogs. Adult snakes may also feed on juvenile bullfrogs. The decline of this species is due principally to habitat loss, the loss of red-legged frog, illegal collection, and the introduction of bullfrogs. Adult bullfrogs prey on both San Francisco garter snakes and California red-legged frogs.

As described above, the habitats for San Francisco garter snakes and red-legged frogs overlap. The sag pond provides critical habitat for the San Francisco garter snake as well as red-legged frog. According to McGinnis (2000) "regular use of upland grassland/scrub habitats had also been documented for the SFGS." McGinnis (2000) concludes with regard to habitat at the Lee property:

> *When all of the preceding facts and biologically based assumptions are applied to the project site,* ***the pond, its riparian fringe, and the entire upland grassland-scrub savannah area qualifies as critical habitat for both the SFGS and the CRF.*** [Emphasis added]. *In addition, the seasonal wetland swale through this portion of the site may very*

> *well serve as a primary movement pathway for both snakes and frogs which occasionally wander to and from CRF ponds on properties immediately north of this site.*

In a subsequent letter, Dr. McGinnis (2001) qualified his conclusion in so far as it related to habitat where the house is proposed to be sited:

> *This site is situated approximately 2,000 feet from the sag pond and would never conceivably be used by either species from that site for hibernation or estivation. The only situation whereby I could envision burrows anywhere near the preferred house site being used is one in which either species is engaged in the very infrequent activity of random wandering… Such a scenario would have a wandering CRF or SFGS proceeding along the most logical movement course, the intermittent drainage approximately 600 feet west of the house site.*

This statement misses two important points. While the proposed house site is approximately 2,000 feet from the sag pond, it is also only about 650 feet from the Hinman pond to the southeast and 860 feet from the farm pond to the northwest, where red-legged frogs have been observed. In addition, the research on radio-tagged red-legged frogs in Santa Cruz County indicates that "Riparian corridors were neither essential nor preferred as dispersal routes." (Bulger, Scott, and Seymour, unpublished). In a letter to David Lee, USFWS states that the proposed house site, which is outside the straight-line paths between ponds,

> *has few rodent burrows or rodent runways that garter snakes could use as retreat sites on a regular basis. However, the Lee house site is separated from the sag pond only by grassland.* ***Unlike the Blank house, there is no unsuitable habitat that creates a barrier to prevent garter snakes and red-legged frogs from entering either the construction site or house site once the house is built.*** [Emphasis added] *Therefore, garter snakes and red-legged frogs could occasionally use these grasslands when moving from one aquatic feature to another.*

Commission staff, including the Commission Ecologist, had several extensive discussions with biologists from USFWS and CDFG regarding whether or not to consider the proposed house site as a sensitive habitat area. They do not consider the house site a sensitive habitat area because it would be used relatively infrequently by the endangered and threatened species and the house would not block movement routes of these frogs and snakes. Accordingly, Commission finds the house site, Site 2, proposed by the applicant is not considered a sensitive habitat area under the certified LCP because it is not critical habitat for the California red-legged frog or the San Francisco garter snake. It is, however, located adjacent to sensitive habitat areas for California red-legged frogs and San Francisco garter snake.

***Impacts and Consistency with Applicable LCP Policies***

LUP Policy 7.1 defines sensitive habitat, which includes, among other areas, habitat for "rare and endangered species," riparian corridors, and wetlands. As described above, most of the parcel is sensitive habitat. The wetlands, riparian areas, and upland dispersal corridors are critical habitat for San Francisco garter snake and red-legged frog. The Monterey pine forest is also sensitive habitat. One of the few areas that is not sensitive habitat is where the house is proposed (see Figure 18).

Although the house site is not directly in sensitive habitat, it is closely adjacent to sensitive habitat. LUP Policy 7.3a prohibits any land use or development that would have a significant adverse impact on sensitive habitat areas. Furthermore, LUP Policy 7.3b requires that development in areas adjacent to sensitive habitat to be sited and designed to avoid impacts that could significantly degrade the sensitive habitats, and that all uses be compatible with maintaining the biologic productivity of the habitats. Thus, the proposed development must be sited and designed to avoid significant impacts to these adjacent sensitive habitat areas.

The proposed artificial pond would result in impacts that could significantly degrade sensitive habitat for San Francisco garter snakes and California red-legged frogs, and therefore, would be inconsistent with LUP Policy 7.3. These species may be attracted to the artificial pond created adjacent to the house. Although the applicant has designed the pond to lessen the potential impact of the artificial pond on the listed frogs and snakes, the pond is still an attractive nuisance for these species. The USFWS letter regarding the proposed project (Exhibit 3) summarizes concerns regarding the pond:

> *As there is only grassland between the sag pond and the house site, the Service believes that the creation of an artificial pond next the house will create an "attractive nuisance," by attracting red-legged frogs away from breeding ponds in the area. If they attempt to use it as a breeding site, the shallow depth of the pool may prevent egg masses from maturing into tadpoles, and/or provide the tadpoles the safety from predators inherent in a deeper natural pond. In addition, the artificial pond will also attract Pacific treefrogs (Hyla regilla). The red-legged frog and Pacific treefrog are primary prey items for garter snakes. The presence of these two frog species will likely attract garter snakes to the artificial pond. The Service is concerned that the close proximity of the artificial pond to the house will be detrimental to garter snakes and red-legged frogs. The presence of nighttime lighting may make it easier for predators such as raccoons to catch red-legged frogs or garter snakes. If house cats are present, they can easily prey upon both garter snakes and red-legged frogs during the day and at night.* ***To reduce the likelihood of take as described above, the Service recommends that the artificial pond be removed from the proposed project.*** [Emphasis added.]

The impacts to California red-legged frogs and San Francisco garter snake cannot be adequately addressed through pond design. Even if the pond were reduced in size it would still attract frogs and snakes and result in similar impacts. Fencing or walls to exclude the frogs and snakes can have detrimental effects on frogs and snakes. For example, the barrier can provide an area for predators to prey on "trapped" individuals or frogs may desiccate when stopped by the barrier. Radio-tagged frogs were presumed to be eaten by predators and found desiccated along the base of an exclosure fence around sewage percolation ponds in a study in San Luis Obispo (Rathbun, Scott, and Murphey 1997). Although the pond would not be located in sensitive habitat it would be adjacent to sensitive habitat, and would result in impacts that would significantly degrade the adjacent sensitive habitat area inconsistent with LUP Policy 7.3. Therefore, Special Condition 2A(1) prohibits construction of the proposed artificial pond.

In addition, impacts of the proposed residential development adjacent to sensitive habitat could result from noise, lights, pets, use of herbicides and pesticides, and general activity that may disturb frogs and snakes and/or lead directly to injury and mortality (e.g., predation from pets).

The existing unpaved access road, now used exclusively to serve the existing Boling residence to the southeast, bisects the movement route of California red-legged frogs and San Francisco garter snakes between the Hinman and Lee ponds (Figure #). Any increase in vehicular traffic along both the access road and driveway, would potentially cause frog and snake mortality. The current edition of the Trip Generation Handbook by the Institute of Transportation Engineers (1997) estimates that a single-family detached dwelling generates an average of 10 trips per day on weekdays and Saturdays, with nine trips per day on Sundays. The handbook is based on data from studies varying widely in terms of dwelling unit size, price, and location, and ranges from five to 22 average trips on weekdays. In addition, the handbook states that within this group, single-family units that were larger and further away from the corresponding central business district generated a higher number of trips than units that are smaller and closer to the central business district. Based on these data it is reasonable to expect that the proposed large residential development in a remote location (approximately 12 miles from the Pescadero town center) would generate more vehicular trips than the average of ten trips per day of an average single-family dwelling. Thus, the impacts of the proposed development to the listed frogs and snakes due to traffic would be greater than that of a smaller, less remote house.

To address post-construction impacts on San Francisco garter snakes and California red-legged frogs associated with dogs being kept on the property, Special Conditions 2A(3) requires that dogs be kept in a fenced area adjacent to the house, and requires the applicant to construct a fence around the perimeter of the sag pond conservation easement area. This condition reduces the potential for dogs to capture and kill listed species, dig up burrows, and other forms of harassment throughout the property.

The San Francisco garter snake hibernates between November 1 and May 1. During this period, hibernating snakes are difficult to detect and are vulnerable to injury or mortality from grading and other earth-disturbing activities. Therefore, Special Condition 5A prohibits grading during this hibernating period to prevent harm to snakes. Special Condition 5B requires the applicant to construct an exclusion fence around the construction site to prevent frogs and snakes from entering the area. During the active period, any snakes that are present in the construction area can be detected by a trained monitor and construction halted if necessary to avoid impacts. Therefore, Special Condition 5C requires that two days prior to grading, surveys shall be conducted for San Francisco garter snake as well as California red-legged frogs to ensure that neither the frogs nor the snakes are present during grading activities. Special Condition 5D requires that a biological monitor be present throughout grading and construction activities and requires the monitor to halt construction activities if San Francisco garter snakes and California red-legged frogs are detected. These measures are necessary to ensure that the proposed development will not result in significant adverse impacts to these protected species consistent with LUP Policy 7.3a.

To reduce impacts associated with the driveway, Special Condition 2A(5) requires that the driveway to the proposed residence and accessory building be from the shortest, most direct route from the existing shared roadway and that it be no wider than 12 feet. Although the driveway is not proposed to be located within the identified frog or snake habitat areas, it would be located adjacent to sensitive habitat areas in which the sensitive species are known to move long distances. Thus, it is possible that these species may be harmed by traffic on the driveway. A shorter, smaller driveway reduces the potential for frogs and snakes to be killed or harmed by vehicles consistent with LUP Policy 7.3b.

To protect sensitive habitat from adverse changes in plant species composition, Special Condition 3A requires that all vegetation planted on the site shall consist of native drought-tolerant plants. For example, invasive, non-native plant species could spread to wetland areas, choking out native vegetation, and thereby degrade pond and wetland habitat for San Francisco garter snakes and California red-legged frogs inconsistent with LUP Policy 7.3.

LUP Policy 7.4 permits only resource-dependent uses in sensitive habitats, and residential development is not considered a resource-dependent use. LUP Policy 7.33 describes very limited types of uses that are permitted in habitats of rare and endangered species, and does not include residential development, as cited below:

> *Permit only the following uses: (1) education and research, (2) hunting, fishing, pedestrian and equestrian trails that have no adverse impact on the species or its habitat, and (3) fish and wildlife management to restore damaged habitats and to protect and encourage the survival of rare and endangered species.*

As discussed above, the sag pond and a 300-foot-wide upland habitat area surrounding the pond provide critical habitat for rare and endangered species and are therefore classified under LUP Policies 7.1 and 7.32 as sensitive habitat. The applicant proposes to install a 2,800-foot-long water line to the residence from a well located at the bottom of the slope near the highway by trenching through the northwestern portion of the sag pond. Installation of the water line as proposed is governed by LUP Policies 7.3, 7.4, 7.33, 7.36, and 7.44, which strictly limit the types of development permissible in sensitive habitat areas. Pursuant to these policies of the LCP, only resource-dependent uses that do not result in significant disruption to the habitat may be located within any of the sensitive habitat areas identified on the project site, including the California red-legged frog dispersal corridors. The water line would be inconsistent with LUP Policy 7.16 because it is not a permitted use in wetlands. Although pipes that result in fill for incidental public service purposes are allowed to be buried in wetlands, the proposed private water line would not result in fill for incidental public service purposes and is therefore not allowable pursuant to LUP Policy 7.16. Therefore, Special Condition 2A(6) prohibits installation of the water line within any of the sensitive habitat areas identified on the site (Figure ##), including the wetlands and riparian areas, except as discussed below, beneath the portion of the dispersal corridor encompassing the road.

The applicant has indicated to Commission staff that the water line may be re-sited within the alignment of the existing access road to avoid impacting the sag pond and other sensitive habitat on the site. The access road traverses the dispersal corridor between the sag pond and the pond located to the northeast of the site. The Fish and Wildlife Service does not consider this existing road to be a barrier to frog dispersal because it carries a low volume of traffic. Thus, frogs are expected to cross the road when moving between ponds. Once installed, the underground water line would not affect the movement of frogs. However, if the pipe is installed during the time that frog dispersal is occurring, significant adverse impacts to the frog are probable. Movement of California red-legged frogs between aquatic habitats does not occur as a regular migration but rather episodically. The frogs disperse during wet periods when the population is high in a particular habitat area. During such times, the frogs may move up to two kilometers to populate

other aquatic habitats (CITE). The frogs do not typically make these long-distance movements during dry periods. Therefore, Special Condition 5 specifies that the water line shall be installed during the dry season to avoid adverse impacts to the frogs. Therefore, as conditioned, the proposed water line would not conflict with the sensitive habitat protection policies of the LCP.

Any future development or agricultural activities such as grazing or cultivation in or adjacent to the sag pond would cause significant adverse impacts to critical San Francisco garter snake and California red-legged frog habitat. To fully protect habitat for San Francisco garter snake and California red-legged frog, the sag pond and surrounding critical habitat area must be managed by an agency or organization with expertise in managing habitats for these species. For example, the pond may require temporary draining to remove bullfrogs or other predators. The composition and density of associated vegetation would need to be managed to encourage breeding by Calfornia red-legged frogs. This kind of long-term habitat conservation cannot be entrusted to individual property owners who lack the knowledge and expertise required for the task. Management of critically important habitat such as this must be carried out by either a public agency or private organization with experience and expertise in habitat conservation and management. Therefore, Special Condition 6 requires that the applicant record and offer to dedicate a conservation easement. The easement includes the sag pond and associated wetland and riparian vegetation and a 300 foot buffer area from the outer edge of the vegetation, as shown in Figure ##. Only by imposing Special Condition 6 can the Commission find that the proposed development is consistent with the requirements of LCP Policy 7.3 to protect sensitive habitat areas on the parcel.

Much of the land in the vicinity of the Lee property is owned and managed by public agencies or is protected under conservation easements. The areas west and north of the site are owned by State Parks as part of Año Nuevo State Reserve and Año Nuevo State Park. Big Basin Redwoods State Park is to the south and east. The State Coastal Conservancy owns the Cascade Ranch to the north and holds a natural resource and agricultural easement over the K&S Ranch, which was formerly part of Cascade Ranch. These areas are managed for protection of special status species, as well as for recreation and agricultural production. The applicant's biologist (McGinnis 2000, 2001) recommends placement of a conservation easement over the sag pond and warns of "dire consequences" for the San Francisco garter snake and California red-legged frog if an easement is not placed over the sag pond. In his review of grazing practices on nearby properties, he describes the adverse effect of cattle grazing on pond habitat. In 1980, habitat at White House Road Pond was destroyed through removal of shoreline and emergent vegetation by cattle. This pond was subsequently protected under a conservation easement and has been restored to once again provide habitat for the San Francisco garter snake and California red-legged frog. At Lake Elizabeth, management by State Parks has resulted in removal of cattle and restoration of the shoreline vegetation. In contrast, Coppock Pond has not been managed to assure its water source and is now a dense tule wetland, providing little or no habitat for the San Francisco garter snake and California red-legged frog. The conservation easement area required in Special Condition 6 will be part of the larger effort by public agencies to manage and protect the remaining San Francisco garter snake and California red-legged frog habitat in the southern San Mateo coast.

The easement required in Special Condition 6 raises an issue under an LCP policy regarding conversion of agricultural land. The sag pond and buffer are within prime agricultural land and lands suitable for agriculture. Special Condition 6 requires protection of the sag pond, riparian

vegetation, and 300 feet of buffer from the riparian vegetation for habitat conservation and would prohibit future agricultural activities on this portion of the project site. Pursuant to LCP Policy 5.8a(1) prime agricultural land may be converted to non-agricultural uses when no alternative site exists for the use. There is no alternative site to protecting the sag pond in place. Relocation of the pond would be incongruous with the goal of protecting this habitat and would be inconsistent with the LCP as well as state and federal laws. Therefore, the Commission finds that the proposed conservation easement is consistent with LCP Policy 5.8a regarding conversion of agricultural land.

As described above, in addition to the sag pond, associated wetland and riparian vegetation, and its buffer, uplands between the sag pond and ponds within 1.25 miles where movement is not inhibited by barriers are also considered critical habitat in accordance with the USFWS' final rule on California red-legged frog critical habitat. The final rule defines this area as at least 300 feet in width. Therefore, in accordance with LUP Policy 7.1, the 300-foot-wide California red-legged frog dispersal corridors are considered sensitive habitat and development in these corridors is restricted to resource dependent uses that do not have a significant adverse impact on the sensitive habitat areas. Because residential development is not a use that is dependent on the California red-legged frog dispersal corridors, Special Condition 7 requires the applicant to record an open space deed restriction over the corridors prohibiting development. As with the conservation easement area, development will be limited within the area governed by the restriction; however, unlike the conservation easement the applicant will retain ownership of the deed restriction area because it does not need to be managed by a public agency. Development prohibited under this condition includes, but is not limited to, structures, walls, fences that do not allow passage of frogs and snakes, and roads.

In accordance with Section 13250(b)(6) of Title 14 of the California Code of Regulations, Special Condition 1 requires that a coastal development permit or an amendment be obtained for all future improvements on the subject parcel that might otherwise be exempt from coastal permit requirements. Because of sensitive habitat, including San Francisco garter snake and California red-legged frog habitat, on the property, as well as visibility of the property from scenic roads and public viewpoints, improvements related to single-family dwellings and other development normally exempted under San Mateo Zoning Code Section 6328.5 require a coastal development permit or amendment. This condition will allow future improvements to be reviewed to ensure that the siting or implementation of a project will not have significant adverse impacts on the sensitive habitat or visual resources. The future development deed restriction applies only to improvements that meet the LCP definition of development contained in Zoning Code Section 6328.3(h). Therefore, minor maintenance projects, such as painting the exterior of buildings the same color as approved in the permit would not require a coastal development permit. The condition also requires a permit or permit amendment for repair and maintenance activities that are identified in Section 6328.5 as involving a risk of adverse environmental impacts.

The project site contains and is bordered by large stands of Monterey pine and eucalyptus trees and contains open grasslands and wetlands. As such, the site provides suitable habitat for raptors. The proposed development will not significantly impact this habitat because no trees are proposed to be removed and the developed area of the property is clustered within one building site leaving the remainder of the 84-acre lot in open space. However, grading and other construction activities and associated noise may adversely affect nesting birds. Sensitive species,

such as loggerhead shrikes, Cooper's hawks, sharp-shinned hawks, and northern harriers, whose population levels are already of concern, may nest in the trees or dense shrubs on and adjacent to the parcel. Construction activities and noise may cause birds to abandon nests, reduce the number of broods they produce, or cause other behaviors that result in reducing population numbers. One study of hawks found that in areas where the birds were disturbed by humans, 60 percent of the nests failed, in comparison to only six percent in areas with minimal or no human disturbance (Wiley 1975, as cited in Department of Fish and Wildlife, no date). The recommended distance from nesting raptors varies from 50 feet to 1,600 feet. The distance for Cooper's hawk and sharp-shinned hawk ranges from 400 to 600 feet (Richardson and Miller 1997). Loggerhead shrike and Cooper's hawk breeds from March through August. Sharp-shinned hawk breeds from April through August. Northern harrier breeds April to September.

Special Condition 5E requires the applicant to undertake measures to avoid potential impacts to nesting birds on the site. The nesting period for the sensitive bird species that may nest at the site extends from March 1 through September 30. Therefore, in order to protect the species consistent with LUP Policies 7.1, 7.3, 7.4, and 7.5, Special Condition 5E requires the applicant to survey the area within 0.25 miles of the construction site for nesting birds within 30 days of construction during the nesting season. Construction is prohibited within 600 feet of active raptor and loggerhead shrike nests, in accordance with the literature recommendation for Cooper's hawk and sharp-shinned hawk. Recommended distances from loggerhead shrike nests were not found during a literature search.

### 2.3.4 Conclusion

In conclusion, the Commission finds that, as conditioned, the proposed development is consistent with the sensitive habitat protection policies of the LCP. As conditioned, the proposed development is sited to avoid any direct impacts to sensitive habitat and includes appropriate mitigation measures to avoid and minimize significant adverse impacts that could result from development adjacent to sensitive habitat areas on the site.

## 2.4 Visual Resources

**The Commission finds that the proposed development, as conditioned, conforms to the LCP policies concerning the protection of the scenic qualities of the hills visible from a scenic highway and public viewpoints.**

### 2.4.1 Issue Summary

The LCP presents two primary tests that address the conformity of the proposed development with the visual resource policies of the certified LCP. The first test addresses siting of development in scenic areas and where it is visible from public viewpoints. This first test is based on LUP Policy 8.5, which requires that new development be located where it is least visible from State and County Scenic Roads, is least likely to significantly impact views from public viewpoints, and is consistent with all other LCP requirements, but preserves the visual and open space qualities overall. The second test addresses the design of development to avoid or minimize impacts to visual resources. The second test requires that development be designed to be unobtrusive as possible and relate in size and shape to adjacent buildings or landforms.

Highway 1 is a State Scenic Road, as defined and designated in LUP Policies 8.28 and 8.29, and Año Nuevo State Reserve is designated as a reserve because of its "outstanding natural and

scenic characteristics." The Lee property, which comprises 84.48 acres, includes two intermediate ridge lines and existing, mature trees and other vegetation that block views of some portions of the property from the highway and the reserve. However, in accordance with LUP Policy 8.5, because some of the less visible alternative sites are in sensitive habitat, they must be eliminated from consideration and the least visible site that is consistent with all other LCP requirements must be ascertained. The applicant conducted a constraints analysis and alternatives assessment to address LUP Policy 8.5.

The large, two-story design of the project does not conform to the requirement that the development in scenic areas shall be as unobtrusive as possible through design, siting, layout, size, height, and shape. The house is 90 feet across facing Highway 1 and Año Nuevo State Reserve, while the depth of the house is 70 feet at its widest. The surrounding area is agricultural in character and very sparsely developed. The closest visible developments are farmhouses and associated structures that are located at the base of hills. The proposed development is a very large residence with a modern design that does not relate in size or shape to adjacent buildings or landforms. Accordingly, the project as approved must include measures to minimize and avoid significant adverse visual impacts consistent with the provisions of the certified LCP.

### 2.4.2 Standard of Review

Several of the policies of the LUP regarding visual resources are applicable to the proposed development. LUP Policy 8.5 requires that development be sited in the least visible location that is consistent with all other LCP requirements. LUP Policies 8.18a. and 8.20 require that the development be designed to avoid or minimize impacts to visual resources. LUP Policy 8.17a. requires that development be located and designed to conform with rather than change landforms. State scenic roads and corridors are defined and designated in LUP Policies 8.28 and 8.29. Development regulations along scenic corridors in rural areas are described in LUP Policy 8.31. LUP Policy 8.31a incorporates the policies of the Scenic Road Element of the County General Plan, of which the applicable policies are 4.46, 4.47, 4.48, and 4.58. General Plan Policy 4.46 authorizes the regulation of both the site and architectural design of structures in rural scenic corridors to protect the visual quality of those areas. General Plan Policy 4.58 also requires that development be located so that it does not obstruct views from scenic roads or disrupt the visual harmony of the landscape. As with LUP Policy 8.17a, landform alteration is discouraged in General Plan Policy 4.47. Similarly, General Plan Policy 4.48 contains language that is similar to LUP Policy 8.20 regarding size and scale of development.

### 2.4.3 Discussion

***Test 1: Siting***

***Visibility of Project from Highway 1 and Año Nuevo Reserve***

The proposed development would be located on the top of a southwest-facing hillside inland of Highway 1, overlooking Año Nuevo State Reserve, in the unincorporated Pescadero area of San Mateo County. This portion of the coast is very sparsely developed, with grazing and row crops occurring on the coastal shelf. The coastal mountains provide a dramatic backdrop to the coastline, rising to elevations of about 1,450 feet. The mountains have dense stands of conifers and shrubs in the drainages and on the upper slopes, but are otherwise covered with grasses that are green in the winter and spring and a golden color in the summer. It is one of the most spectacular, scenic coastal areas in San Mateo County. The California Department of Parks and

Recreation's brochure for Año Nuevo State Reserve describes the reserve and vicinity as follows:

> *Fifty-five miles south of San Francisco and the Golden Gate, a low, rocky, windswept point juts out into the Pacific Ocean. The Spanish maritime explorer Sebastian Vizcaino named it for the day on which he sighted it in 1603 - Punta de Año Nuevo - New Year's Point.*
>
> ***Today, the point remains much as Vizcaino saw it from his passing ship - lonely, undeveloped, wild.*** *Elephant seals, sea lions, and other marine mammals come ashore to rest, mate, and give birth in the sand dunes or on the beaches and offshore islands.* ***It is a unique and unforgettable natural spectacle that hundreds of thousands of people come to witness each year****.[Emphasis added]*

State Reserves, such as Año Nuevo State Reserve, are the highest level of protection classification of the California State Park System. The Public Resources Code describes State Reserves as "consisting of areas embracing outstanding natural and scenic characteristics of statewide significance" (California Department of Parks and Recreation 2000). Año Nuevo Point is also designated as a National Natural Scenic Landmark. Año Nuevo State Reserve currently is visited by over 200,000 people from around the world annually with higher visitation rates expected in the future (California Department of Parks and Recreation 2000, Enge 1999). Visitors to the Reserve come to see the thousands of elephant seals that breed there as well as to enjoy pristine coastal views looking inland that are not possible from many locations along the coast (Enge 1999).

Much of the property is located within the Highway 1 and Año Nuevo State Reserve viewshed, with one of the most prominent locations being the top of the hill upon which the proposed development would be located. The parcel ranges in elevation from approximately 160 to 390 feet above mean sea level (msl). The proposed building site is located on a flat grassland terrace at the highest point of the property. Because of its proposed hilltop location, large size and two-story height, the proposed development would be visible to vehicles traveling south and north on Highway 1 and would be visible from trails in Año Nuevo State Reserve.

The proposed site is visible from numerous locations on the main public trail in the Reserve. It is also visible from the Outdoor Education road/trail coming in from Año Nuevo point. The point is approximately two miles from the proposed building site and the closest portion of Año Nuevo State Reserve is approximately a half mile from the building site. Although the views from the reserve to the site are somewhat distant, the proposed development represents a significant alteration in the view because no other similar development is visible from these areas. The Lee house would be a large non-agricultural residence visible from the reserve because it is sited at the top of a hill with a large clearing in front of it. With the exception of the Boling house, adjacent residences are associated with farms and are hidden and/or sited at the base of the slope near Highway 1. According to California Department of Parks and Recreation, from the Reserve "visitors view pristine coastal mountains with no current intrusive visual impacts" (California Department of Parks and Recreation 2000).

***Constraints Analysis***

The applicant has provided an analysis of the project impacts and constraints. Additional analyses included biological assessments (Thomas Reid Associates 2000a and 2000c), wetland delineation (Thomas Reid Associates 2000b), geotechnical review (Romig Consulting Engineers 2000a and 2000b), arborist's analysis (Fong 2000a and 2000b), assessment of Monterey pines by a forester (Staub 2000 and 2001), and analysis of LCP consistency (Boyd 2000). At the request of Commission staff, the applicant used these studies along with additional observations to create constraints maps of the entire site (Figures 20 through 22). Figure 23 was created after the alternatives analysis was conducted and demonstrates that much of the site is visible from public viewpoints. These constraints maps were created prior to the most recent revisions to the proposed project at Site 2. Therefore the layout of the house is now more compact and the driveway is shorter.

***Alternatives Analysis***

In response to the Commission's appeal and to address LUP Policy 8.5, the applicant conducted an alternatives siting analysis. The locations of the alternative sites suggested by Commission staff and considered by the applicant are shown in Figure 15. The County-approved site is referred to as Site 1. **The applicant has indicated that Site 2 is the proposed project for purposes of the de novo review** (Lee 2000). Site 2 is 215 feet southeast of Site 1. Site 3 is located to the immediate southeast of Site 2. Site 3 would locate the development in the southeast corner of the parcel, where it would be more effectively screened by existing mature Monterey pine forest. Site 4 is on the south side of the property above the ravine. Site 5 is on the north side of the property. Site 6 is behind the first ridge on the south side of the parcel approximately 1,650 feet from Highway 1. Site 7 is in the eucalyptus grove in the northern corner of the parcel. Other sites may also be considered. Of the alternatives presented, Site 4 appears to be the least visible alternative. Because Site 2 is the applicant's proposed project location and Site 4 appears to be the least visible site, these two alternatives are analyzed in greater detail than the other alternatives.

After the appeal was filed the applicant provided visual simulations of the project from six locations along Highway 1 and from four locations in Año Nuevo State Reserve. These simulations show the development at six of the sites, although not all of the sites are shown from all of the camera angles. No simulations were performed for Site 6 because it was determined shortly after it was proposed that it would be in sensitive habitat, and therefore, warranted no further consideration. Site 4 is shown from camera positions B and D only because it is not visible from the other camera angles. In addition, it appears from the simulation for Site 4 that the development would not be visible from camera position D at Año Nuevo State Reserve. The proposed development at Site 4 would be visible from only one of the camera positions and Site 2 would be visible from all of the camera positions. Therefore, placing the development at Site 4 would make it far less visible than at Site 2. In addition, the simulations for Sites 1 and 2 were guided by the story poles placed at the site, while the others did not benefit from that level of accuracy. The initial simulations were for the design of the County-approved project. The applicant subsequently did additional simulations for the more compact house design of the proposed project at Site. The simulation at Site 2 shows the house colored to match the eucalyptus trees and the berm and vegetation screening in front of it (Figure 26). The subsequent simulation of the proposed project at Site 7 is not comparable to this simulation at Site 2 because it depicts the County-approved house design of the main portion of the house (note 6 windows

on either side of the roof rather than 3), is colored brown rather than to match the eucalyptus, and does not include the berm or vegetation screening (Figure 27).

***Applicant's Reasons for Eliminating All Sites Except Site 2***

***Site 1***

Site 1 is the development site originally approved by San Mateo County at the top of the slope near the eastern property boundary. The Commission found that siting the proposed residence at this location raises a substantial issue concerning the LCP visual resource policies. Following the Commission determination of substantial issue, the applicant amended the project description to relocate the proposed residence to Site 2.

***Site 2***

The applicant contends that the proposed building site (Site 2) minimizes impacts on biological resources because it is not located within any of the sensitive habitat areas on the project site as discussed above. The applicant contends that Site 2 is the optimum site from a geologic and geotechnical engineering viewpoint (Thomas Reid Associates 2000a; Romig Consulting Engineers 2000a and 2000b). The San Gregorio fault is approximately 1,400 feet to the west of Site 2.

***Site 3***

Site 3 is directly adjacent to an existing Monterey pine forest and contains a large number of Monterey pine saplings. The site appears to be suitable for regeneration of Monterey pine forest. The applicant rejects site 3 because development at Site 3 would require removal of Monterey pine saplings and reduce the area on the site available for regeneration of Monterey pine forest.

***Site 4***

Site 4 would be approximately 1,080 feet from the pond and 175 feet from the ravine mentioned above. The applicant contends that it would not be possible to "place a homesite on the Site 4 slope and respect the 100-foot wetlands buffer and a 75-foot setback from the existing Monterey pines" (Boyd 2000). A biologist for the applicant conducted a preliminary wetland assessment and identified four wetland areas (Thomas Reid Associates 2000a) as well as a jurisdictional wetland delineation (Thomas Reid Associates 2000b), as shown in Figure 28. According to a constraints map of Site 4 prepared by the applicant's geotechnical engineers, the house would be within the 100-foot buffer of a wetland and 75 feet of the Monterey pines (Figure 29).

The applicant has identified buffers around the Monterey pine forest and concludes that locating the development at Site 4 would impinge on this buffer. The applicant's agent states that "it would be impossible to construct the home without impacting the root zones and groundwater vital to the Monterey pines" (Boyd 2000). The forester concluded that to protect the natural regeneration of the Monterey pine populations, development should be 80 to 115 feet from the exiting mature forest perimeter (Staub 2000). In addition, the applicant states that Site 4 would need to be located 75 feet from Monterey pines for safety reasons: out of reach if they topple and to reduce fire hazards (Fong 2000b; Boyd 2000).

Site 4 is 2,400 feet from where the butterfly was seen in the willows near the entrance and approximately 100 feet from the Monterey pine forest. The eucalyptus trees on the northern boundary of the site where Monarchs were seen (Thomas Reid Associates 2000a) are approximately 1,000 feet from Site 4.

The applicant contends that Site 4 would not be feasible or would be inconsistent with LCP policies regarding geologic hazards. Site 4 is approximately 1,100 from the fault. The applicant's geotechnical engineers noted that soil slumping and shallow landsliding are actively occurring in the colluvial soils at Site 4. Grading and earthwork required to site the proposed house design at Site 4 would result in fill slopes as high as 40 feet to accommodate the house pad (Romig Consulting Engineers 2000b). Fills would have to be properly keyed and benched into the weathered rock below the hillside and the fills would have to be kept dry. A letter from the geotechnical engineers indicates that the subdrainage needed to build the fills could dewater the soils contributing ground water to the wetland areas. The letter also states that due to the fills and grading, erosion would occur, especially in the first few years after construction (Romig Consulting Engineers 2000b).

***Site 5***

The applicant's analysis rejects Site 5 because it is more visually prominent than Site 2 (Boyd 2000).

***Site 6***

The applicant rejects Site 6 because it would require the longest driveway (1,400 feet) of any of the sites and would cross the grassland that provides critical habitat for the San Francisco garter snake and the red-legged frog. This site is closer to the San Gregorio Fault than any of the other sites and is in a moderate to high geologic hazard zone.

***Site 7***

The applicant's analysis of Site 7 indicates that removal of the eucalyptus would require a 400 foot diameter area of exposed soil and disturbance that could result in erosion and siltation in adjacent sensitive habitat (swale) (Fong 2001). In addition, Site 7 is within the straight-line path for California red-legged frogs between the sag pond and the farm pond. The eucalyptus are not considered to present a barrier to movement of the frogs. Therefore, Site 7 is in sensitive habitat. In addition, the applicant's forester found Monterey pines within the eucalyptus grove and in the adjacent grassland.

***Staff's Analysis of the Least Visible Site Consistent With All Other LCP Policies***

Staff has reviewed the applicant's assessment of alternative sites and concurs with the determination that there are no less visible sites on the property other than proposed Site 2, that are consistent with all other LCP requirements. Of the alternative sites identified, only Sites 2 and 5 are located outside of sensitive habitat areas. Thus, development of these sites – sites 3, 4, 6 or 7, would be in conflict with LUP Policies 7.3 and 7.4. After several site visits and review of photo-simulations, topographic maps and site plans, staff agrees that development located at Site 5 would be more visually obtrusive than at Site 2. Therefore, consistent with LCP Policy 8.5, proposed Site 2 is the least visible site consistent with all other LCP requirements.

***Test 2: Scale, Design, and Landform Alteration***

***Development Shall Be As Unobtrusive As Possible***

Although the project is proposed to be located in the least visible site consistent with all other policies, the proposed development is inconsistent with LUP Policy 8.18a. and 8.31a because it is not designed to protect views from Highway 1 and Año Nuevo State Reserve, is not visually

compatible with the character of the surrounding area, and would not be subordinate to the character of its setting.

LUP Policy 8.18a. requires development to blend with and be subordinate to the environment and the character of the area and be as **unobtrusive as possible** through, but not limited to, **siting, design, layout, size, height, shape**, materials, colors, access, and landscaping. LUP Policy 8.31a incorporates General Plan Policies 4.46 and 4.58. General Plan Policy 4.46 authorizes the regulation of both the site and architectural design of structures in rural scenic corridors to protect the visual quality of those areas. General Plan Policy 4.58 also requires development to be located so that it does not obstruct views from scenic roads or disrupt the visual harmony of the landscape.

The proposed development would be 26 feet high above natural grade and have a linear design that would present an approximately 90-foot-long façade to the coastal viewshed. The applicant proposes to screen the development from view by constructing a large berm directly in front of the residence. The berm would be 230 feet long and a maximum of 20 feet high. The berm would be planted with native grassland species and coyote brush (Field 2001b). The berm itself would screen the house (except for the southeastern view corridor area) from Highway 1, but not from the dunes at Año Nuevo. To screen the house from this location, the applicant proposes to plant six to eight foot high vegetation on top of the berm. Because of its location on a small flat area at the top of the hill it is not feasible to form the berm as a gradual, natural-appearing slope. As proposed, the berm would consist of a steeply sloped linear feature that would neither blend with nor be subordinate to the surrounding landforms. Thus, as proposed, the development is inconsistent with LUP Policies 8.18a and 8.31a.

The berm is proposed as a means to mitigate the adverse visual impacts of the development. However, as proposed the berm itself would also significantly degrade the scenic qualities of the site. Therefore, the proposed berm is not an adequate or effective mitigation measure. The height, length and position of the berm is determined by the height and scale of the residence that it is designed to screen. The massive scale and artificial design of the proposed berm is necessary because of the height and scale of the residence. Thus, the scale of the berm could be reduced by reducing the scale of the proposed residence. A smaller berm or series of small berms could be designed to more closely resemble natural landforms. Such a design would more effectively mitigate the visual impacts of the development consistent with LUP Policies 8.18a and 8.31a.

Special Condition 2A requires that no portion of any structure be visible from Highway 1 or Año Nuevo State Reserve. Special Condition 2A(7) requires the use of existing vegetation, an earthen berm, and/or a combination of a berm and native scrub vegetation to screen the structures 100 percent from Highway 1 and Año Nuevo State Reserve. To reduce the potential for the berm looking unnatural and obtrusive, Special Condition 2A(8) limits the height of the berm to no higher than 12 feet. To allow a 12-foot berm with six to eight feet of scrub vegetation to screen the proposed residence completely, the highest portion of the house can be no higher than 18 feet from the natural grade. Therefore, Special Condition 2A(9) restricts the height of the house, measured from the natural ground level to the peak of the roof, to no higher than 18 feet.

This height limit is comparable to that required in the Community Open Space District zoning of the San Mateo County LCP (Section 6228), which allows only one-story buildings with a maximum height of 16 feet. Coastal Development Permit 85-80 for subdivision of a nearby parcel at Cascade Ranch, also inland of Highway 1, conditioned future development to minimize

visibility from Highway 1 though landscape screening and earth berms and limited non-agricultural structures to 16 feet in height "unless additional height would not be substantially visible from Highway 1 and would not adversely affect the scenic qualities of the area." The proposed 26-foot high residence (actually 36-foot from base to peak of the roof, with 10 feet below grade) would be substantially visible from Highway 1 and would adversely affect the scenic qualities of the area. Restricting the height of the berms to 12 feet and the house to 18 feet is necessary to satisfy the requirements of LUP Policies 8.17, 8.18 and 8.31 that new development shall minimize alteration of natural landforms, blend with and be subordinate to the environment and character of the area, be as unobtrusive as possible and not detract from the natural, open space or visual qualities of the area.

### 2.4.4 Conclusion

The Commission finds that, as conditioned, the proposed development is sited where it is least visible from public areas consistent with all other policies of the LCP, is designed to minimize adverse impacts to the scenic qualities of the area and to minimize alteration of natural landforms consistent with the visual and scenic resource policies of the LCP.

## 2.5 Water Quality/Polluted Runoff

**The Commission approves the permit application because the proposed project, as conditioned, protects the quality and biological productivity of coastal waters from impacts associated with erosion and polluted runoff.**

### 2.5.1 Issue Summary

Development is proposed approximately 600 feet uphill from a vegetated swale and is adjacent to other sensitive habitat (dispersal habitat for San Francisco garter snakes and California red-legged frogs). Special conditions to protect water quality in the swale address runoff and erosion control to ensure that the sensitive habitat is not adversely affected.

### 2.5.2 Standard of Review

The standard of review is LCP policy 7.3, which states:

> *7.3 Protection of Sensitive Habitats*
>
> *a. Prohibit any land use or development which would have significant adverse impact on sensitive habitat areas.*
> *b. Development in areas adjacent to sensitive habitats shall be sited and designed to prevent impacts that could significantly degrade the sensitive habitats. All uses shall be compatible with the maintenance of biologic productivity of the habitats.*

Runoff from construction areas and developed areas may contain sediment and pollutants that may adversely affect water quality in sensitive habitats.

### 2.5.3 Discussion

A swale vegetated with scrub and riparian vegetation runs from the northern corner of the parcel and crosses the southern boundary approximately one-third of the way down from the southeastern corner (Figure 29). The swale connects to a wetland (Wetland 4 shown on Figure 28). The proposed residence and associated structures would be approximately 600 feet uphill

from the swale. The swale as well as adjacent grasslands provide dispersal habitat for San Francisco garter snake and California red-legged frog, as discussed above in Section 2.3.

Due to the proximity of the development to the swale, water quality may be adversely affected. Grading and construction may increase soil erosion and sediments could be transported into the riparian area. The residence, other structures, and paved areas may increase local runoff due to the creation of impervious areas. This increased runoff will carry with it pollutants such as suspended solids, oil and grease, nutrients, and synthetic organic chemicals. An increase in the volume and/or velocity of water in the swale or wetland or an increase in sediment entering the area could damage the vegetation bordering these areas. This decrease in vegetation could result in changes, such as an increase in water temperature, which would adversely affect aquatic organisms downstream in the wetland or creek to which the swale connects. Pollutants would also adversely affect aquatic organisms. All of these impacts may adversely affect the biological productivity of the swale/wetland/riparian system.

Special Conditions 8, 9, and 10 ensure that the proposed development complies with LCP Policy 7.3 by reducing erosion and associated sediment loads, and reducing the amount of pollutants that enter sensitive habitats, such as riparian corridors and wetlands on the property. These conditions would therefore allow the proposed uses to be compatible with the maintenance of biologic productivity of the habitats. Special Condition 8 addresses water quality impacts that may occur during the construction period. It requires the applicant to submit plans for erosion control that show how the transport and discharge of sediment and pollutants from the site will be minimized, thereby reducing potential effects to biologic productivity. BMPs required by Special Condition 8A(4) reduce the potential for pollutants, such as oil and grease from construction vehicles, to enter the swale. Special Condition 8B requires monitoring and maintenance during the construction period. Special Condition 9 addresses post-construction drainage and runoff control. It requires submittal of a Stormwater Pollution and Prevention Plan to demonstrate how the volume and water quality of runoff from the development will be controlled. Special Condition 9B requires post-construction maintenance and monitoring to be included in the plan. Special Condition 10 requires submittal of a grading plan so that the Executive Director can review the plan to ensure that grading, and therefore sedimentation, is minimized and does not occur in sensitive habitats.

### 2.5.4 Conclusion

The Commission finds that, as conditioned, the proposed development is consistent with the sensitive habitat policy of the LCP through which water quality is protected. As conditioned, impacts associated with erosion and runoff have been minimized so as to prevent impacts that could significantly degrade sensitive habitats.

## 2.6 Development Review

Although the proposed development will likely use more water than a smaller residence, it is in conformance with LUP Policy 1.8.

### 2.6.1 Issue Summary

The proposed development has one density credit, thereby allowing the development of one single-family residence, as proposed.

### 2.6.2 Standard of Review

LUP Policy 1.8 requires the determination of density credits for new or expanded non-agricultural development. Essentially, one density credit allows the development of one single-family residential dwelling. LUP Policy 1.8c.(2)(a) states that "a single-family dwelling unit shall be deemed to use 315 gallons of water per day during the two months of highest water use in a year (including landscaping, swimming pools and all other appurtenant uses)."

LUP Policy 1.23 and associated Table 1.4 define the number of developments that can occur in a year within particular watersheds. The purpose is to limit development in rural areas so that it does not overburden coastal resources or public services.

### 2.6.3 Discussion

San Mateo County determined that the Lee property qualified for 1.10 density credits, which is rounded to the nearest whole number, or one density credit (Exhibit 5). This means that on the entire parcel only one residence can be constructed. Smaller lot sizes and increased multi-family housing generally lower per capita water use (Department of Water Resources 2001). Conversely, larger dwellings, such as the one proposed, with large water features, such as the proposed 6,000-square-foot reflecting pond, are likely to use more water than the average household and more than the 315 gallons per day estimated per density credit. As an additional benefit, water use is reduced by Special Condition 2A(2), which eliminates the reflecting pond because of adverse impacts on sensitive habitat. However, the LCP does not define the size of the house and appurtenances allowable per density credit thereby not enabling any conditions to be included that address water use solely or directly. There is no provision of the LCP that requires additional density credits based on the scale of a single-family residential development.

### 2.6.4 Conclusion

Although the proposed development will likely use more water than a smaller residence, it is in conformance with LUP Policy 1.8.

## 2.7 California Environmental Quality Act (CEQA)

Section 13096 of the California Code of Regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available that would substantially lessen any significant adverse effect which the activity may have on the environment.

The Commission incorporates its preceding findings on consistency of the proposed project with the San Mateo County LCP policies at this point as if set forth in full. These findings address and respond to public comments regarding potential significant adverse environmental effects of the project that were received prior to preparation of the staff report. As conditioned, there are no feasible alternatives or feasible mitigation measures available, beyond those required, which would substantially lessen any significant adverse impacts that the development may have on the environment. Therefore, the Commission finds that the proposed project has been conditioned to mitigate the identified impacts and can be found consistent with Coastal Act requirements to conform to CEQA.

# Appendix A
# Substantive File Documents

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# Appendix B
# Referenced Policies

## CALIFORNIA COASTAL ACT
**Section 30604**

(b) After certification of the local coastal program, a coastal development permit shall be issued if the issuing agency or the commission on appeal finds that the proposed development is in conformity with the certified local coastal program.

## SAN MATEO LOCAL COASTAL PROGRAM
### Land Use Plan

*1.8 Land Uses and Development Densities in Rural Areas

a. Allow new development (as defined in Section 30106 of the California Coastal Act of 1976) in rural areas only if it is demonstrated that it will not: (1) have significant adverse impacts, either individually or cumulatively, on coastal resources and (2) diminish the ability to keep all prime agricultural land and other land suitable for agriculture (as defined in the Agriculture Component) in agricultural production.

b. Permit in rural areas land uses designated on the Local Coastal Program Land Use Plan Maps, and conditional uses up to the densities specified in Tables 1.2 and 1.3.

c. (1) Require Density Credits for Non-Agricultural Uses

Require density credits for all new or expanded non-agricultural land uses in rural areas, including all residential uses, except affordable housing (to the extent provided in Local Coastal Program Policy 3.23) and farm labor housing, as defined in Local Coastal Program Policy 3.28, mining in accordance with General Plan Policies 3.11 and 3.12, and solid waste facilities under the policies in General Plan Chapter 13. The existence and number of density credits on a parcel shall be determined by applying Table 1.3.

Expanded or additional non-agricultural uses shall only be permitted on a parcel when there are enough density credits available to that parcel to meet the density credit requirements of this policy for both (a) existing uses, and (b) any expanded or additional uses, and only where such development meets all other applicable policies of the Local Coastal Program.

(2) Amount of Development Allowed for Non-Agricultural Uses, Except Visitor-Serving, Commercial Recreation, and Public Recreation Uses

For new or expanded non-agricultural uses, except visitor-serving, commercial recreation, and public recreation uses, one density credit shall

be required for each 315 gallons, or fraction thereof, of average daily water use during the two months of highest water use in a year. This requirement applies to water use by or resulting from the non-agricultural use, including landscaping, swimming pools and all other appurtenant uses.

(a) Residential Uses

For new or expanded residential uses, a single-family dwelling unit shall be deemed to use 315 gallons of water per day during the two months of highest water use in a year (including landscaping, swimming pools and all other appurtenant uses).

(b) Non-Agricultural Uses Except Visitor-Serving, Commercial Recreation, and Public Recreation Uses

For non-agricultural uses, except visitor-serving, commercial recreation, and public recreation uses, the amount of development allowed for each density credit in accordance with the requirements of this policy shall be the amount stated in Table 1.5 in the column headed "Number of Measuring Units Per Density Credit Based on Peak Daily Water Use With Conservation Fixtures."

*5.1 Definition of Prime Agricultural Lands

Define prime agricultural lands as:

a. All land which qualifies for rating as Class I or Class II in the U.S. Department of Agriculture Soil Conservation Service Land Use Capability Classification, as well as all Class III lands capable of growing artichokes or Brussels sprouts.

b. All land which qualifies for rating 80-100 in the Storie Index Rating.

c. Land which supports livestock for the production of food and fiber and which has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the U.S. Department of Agriculture.

d. Land planted with fruit or nut bearing trees, vines, bushes, or crops which have a non-bearing period of less than five years and which normally return during the commercial bearing period, on an annual basis, from the production of unprocessed agricultural plant production not less than $200 per acre.

e. Land which has returned from the production of an unprocessed agricultural plant product an annual value that is not less than $200 per acre within three of the five previous years.

The $200 per acre amount in subsections d. and e. shall be adjusted regularly for inflation, using 1965 as the base year, according to a recognized consumer price index.

*5.3 Definition of Lands Suitable for Agriculture

Define other lands suitable for agriculture as lands on which existing or potential agricultural use is feasible, including dry farming, animal grazing, and timber harvesting.

*5.5 Permitted Uses on Prime Agricultural Lands Designated as Agriculture

a. Permit agricultural and agriculturally related development on prime agricultural lands. Specifically, allow only the following uses: (1) agriculture including, but not limited to, the cultivation of food, fiber or flowers, and the grazing, growing, or pasturing of livestock; (2) non-residential development customarily considered accessory to agricultural uses including barns, storage/equipment sheds, stables for farm animals, fences, water wells, well covers, pump houses, and water storage tanks, water impoundments, water pollution control facilities for agricultural purposes, and temporary roadstands for seasonal sale of produce grown in San Mateo County; (3) soil-dependent greenhouses and nurseries; and (4) repairs, alterations, and additions to existing single-family residences.

b. Conditionally permit the following uses: (1) single-family residences, (2) farm labor housing, (3) public recreation and shoreline access trails, (4) non-soil-dependent greenhouses and nurseries, (5) onshore oil and gas exploration, production, and minimum necessary related storage, (6) uses ancillary to agriculture, (7) permanent roadstands for the sale of produce, provided the amount of prime agricultural land converted does not exceed one-quarter (1/4) acre, (8) facilities for the processing, storing, packaging and shipping of agricultural products, and (9) commercial wood lots and temporary storage of logs.

*5.6 Permitted Uses on Lands Suitable for Agriculture Designated as Agriculture

a. Permit agricultural and agriculturally related development on land suitable for agriculture. Specifically, allow only the following uses: (1) agriculture including, but not limited to, the cultivation of food, fiber or flowers, and the grazing, growing, or pasturing of livestock; (2) non-residential development customarily considered accessory to agricultural uses including barns, storage/equipment sheds, fences, water wells, well covers, pump houses, water storage tanks, water impoundments, water pollution control facilities for agricultural purpose, and temporary roadstands for seasonal sale of produce grown in San Mateo County; (3) dairies; (4) greenhouses and nurseries; and (5) repairs, alterations, and additions to existing single-family residences.

b. Conditionally permit the following uses: (1) single-family residences, (2) farm labor housing, (3) multi-family residences if affordable housing, (4) public recreation and shoreline access trails, (5) schools, (6) fire stations, (7) commercial recreation including country inns, stables, riding academies, campgrounds, rod and gun clubs, and private beaches, (8) aquacultural activities, (9) wineries, (10) timber harvesting, commercial wood lots, and storage of logs, (11) onshore oil and gas exploration, production, and storage, (12) facilities for the processing, storing, packaging and shipping of agricultural products, (13) uses ancillary to agriculture, (14) dog kennels and breeding facilities, (15) limited, low intensity scientific/technical research and test facilities, and (16) permanent roadstands for the sale of produce.

*5.8 Conversion of Prime Agricultural Land Designated as Agriculture

a. Prohibit conversion of prime agricultural land within a parcel to a conditionally permitted use unless it can be demonstrated:

(1) That no alternative site exists for the use,

(2) Clearly defined buffer areas are provided between agricultural and non-agricultural uses,

(3) The productivity of any adjacent agricultural land will not be diminished, and

(4) Public service and facility expansions and permitted uses will not impair agricultural viability, including by increased assessment costs or degraded air and water quality.

b. In the case of a recreational facility on prime agricultural land owned by a public agency, require the agency:

(1) To execute a recordable agreement with the County that all prime agricultural land and other land suitable for agriculture which is not needed for recreational development or for the protection and vital functioning of a sensitive habitat will be permanently protected for agriculture, and

(2) Whenever legally feasible, to agree to lease the maximum amount of agricultural land to active farm operators on terms compatible with the primary recreational and habitat use.

*5.10 Conversion of Land Suitable for Agriculture Designated as Agriculture

a. Prohibit the conversion of lands suitable for agriculture within a parcel to conditionally permitted uses unless all of the following can be demonstrated:

(1) All agriculturally unsuitable lands on the parcel have been developed or determined to be undevelopable;

(2) Continued or renewed agricultural use of the soils is not feasible as defined by Section 30108 of the Coastal Act;

(3) Clearly defined buffer areas are developed between agricultural and non-agricultural uses;

(4) The productivity of any adjacent agricultural lands is not diminished;

(5) Public service and facility expansions and permitted uses do not impair agricultural viability, including by increased assessment costs or degraded air and water quality.

b. For parcels adjacent to urban areas, permit conversion if the viability of agricultural uses is severely limited by conflicts with urban uses, the conversion of land would complete a logical and viable neighborhood and contribute to the establishment of a stable limit to urban development, and conditions (3), (4) and (5) in subsection a. are satisfied.

*5.11 Maximum Density of Development Per Parcel

a. Limit non-agricultural development densities to those permitted in rural areas of the Coastal Zone under the Locating and Planning New Development Component.

b. Further, limit non-agricultural development densities to that amount which can be accommodated without adversely affecting the viability of agriculture.

c. In any event, allow the use of one density credit on each legal parcel.

d. A density credit bonus may only be allowed for the merger of contiguous parcels provided that (1) the density bonus is granted as part of a Coastal Development Permit, (2) a deed restriction is required as a condition of approval of that Coastal Development Permit, (3) the deed restriction requires that any subsequent land division of the merged property shall be consistent with all other applicable LCP policies, including Agriculture Component Policies, and shall result in at least one agricultural parcel whose area is greater than the largest parcel before consolidation, and (4) the Coastal Development Permit is not in effect until the deed restriction is recorded by the owner of the land. The maximum bonus shall be calculated by:

(1) Determining the total number of density credits on all parcels included in a master development plan; and

(2) Multiplying that total by 25% if the merger is entirely of parcels of 40 acres or less, or by 10% if some or all of the parcels combined are larger than 40 acres.

The merged parcel shall be entitled to the number of density credits on the separate parcels prior to merger plus the bonus calculated under this subsection. The total number of density credits may be used on the merged parcel. Once a parcel or portion of a parcel has been part of a merger for which bonus density credit has been given under this subsection, no bonus credit may be allowed for any subsequent merger involving that parcel or portion of a parcel.

e. Density credits on parcels consisting entirely of prime agricultural land, or of prime agricultural land and land which is not developable under the Local Coastal Program, may be transferred to other parcels in the Coastal Zone, provided that the entire parcel from which credits are transferred is restricted permanently to agricultural use by an easement granted to the County or other governmental agency. Credits transferred may not be used in scenic corridors or on prime agricultural lands; they may be used only in accordance with the policies and standards of the Local Coastal Program.

*7.1 Definition of Sensitive Habitats

Define sensitive habitats as any area in which plant or animal life or their habitats are either rare or especially valuable and any area which meets one of the following criteria: (1) habitats containing or supporting "rare and endangered" species as defined by the State Fish and Game Commission, (2) all perennial and intermittent streams and their tributaries, (3) coastal tide lands and marshes, (4) coastal and offshore areas containing breeding or nesting sites and coastal areas used by migratory and resident water-associated birds for resting areas and feeding, (5) areas used for scientific study and research concerning fish and wildlife, (6) lakes and ponds and adjacent shore habitat, (7) existing game and wildlife refuges and reserves, and (8) sand dunes.

Sensitive habitat areas include, but are not limited to, riparian corridors, wetlands, marine habitats, sand dunes, sea cliffs, and habitats supporting rare, endangered, and unique species.

*7.3 Protection of Sensitive Habitats

a. Prohibit any land use or development which would have significant adverse impact on sensitive habitat areas.

b. Development in areas adjacent to sensitive habitats shall be sited and designed to prevent impacts that could significantly degrade the sensitive habitats. All uses shall be compatible with the maintenance of biologic productivity of the habitats.

*7.4 Permitted Uses in Sensitive Habitats

a. Permit only resource dependent uses in sensitive habitats. Resource dependent uses for riparian corridors, wetlands, marine habitats, sand dunes, sea cliffs and habitats supporting rare, endangered, and unique species shall be the uses permitted in Policies 7.9, 7.16, 7.23, 7.26, 7.30, 7.33, and 7.44, respectively, of the County Local Coastal Program on March 25, 1986.

b. In sensitive habitats, require that all permitted uses comply with U.S. Fish and Wildlife and State Department of Fish and Game regulations.

7.5 Permit Conditions

a. As part of the development review process, require the applicant to demonstrate that there will be no significant impact on sensitive habitats. When it is determined that significant impacts may occur, require the applicant to provide a report prepared by a qualified professional which provides: (1) mitigation measures which protect resources and comply with the policies of the Shoreline Access, Recreation/Visitor-Serving Facilities and Sensitive Habitats Components, and (2) a program for monitoring and evaluating the effectiveness of mitigation measures. Develop an appropriate program to inspect the adequacy of the applicant's mitigation measures.

b. When applicable, require as a condition of permit approval the restoration of damaged habitat(s) when in the judgment of the Planning Director restoration is partially or wholly feasible.

7.7 Definition of Riparian Corridors

Define riparian corridors by the "limit of riparian vegetation" (i.e., a line determined by the association of plant and animal species normally found near streams, lakes and other bodies of freshwater: red alder, jaumea, pickleweed, big leaf maple, narrow-leaf cattail, arroyo willow, broadleaf cattail, horsetail, creek dogwood, black cottonwood, and box elder). Such a corridor must contain at least a 50% cover of some combination of the plants listed.

7.8 Designation of Riparian Corridors

Establish riparian corridors for all perennial and intermittent streams and lakes and other bodies of freshwater in the Coastal Zone. Designate those corridors shown on the Sensitive Habitats Map and any other riparian area meeting the definition of Policy 7.7 as sensitive habitats requiring protection, except for manmade irrigation ponds over 2,500 sq. ft. surface area.

7.9 Permitted Uses in Riparian Corridors

a. Within corridors, permit only the following uses: (1) education and research, (2) consumptive uses as provided for in the Fish and Game Code and Title 14 of the California Administrative Code, (3) fish and wildlife management activities, (4) trails and scenic overlooks on public land(s), and (5) necessary water supply projects.

b. When no feasible or practicable alternative exists, permit the following uses: (1) stream dependent aquaculture, provided that non-stream dependent facilities locate outside of corridor, (2) flood control projects, including selective removal of riparian vegetation, where no other method for protecting existing structures in the floodplain is feasible and where such protection is necessary for public safety or to protect existing development, (3) bridges when supports are not in significant conflict with corridor resources, (4) pipelines, (5) repair or maintenance of roadways or road crossings, (6) logging operations which are limited to temporary skid trails, stream crossings, roads and landings in accordance with State and County timber harvesting regulations, and (7) agricultural uses, provided no existing riparian vegetation is removed, and no soil is allowed to enter stream channels.

7.10 Performance Standards in Riparian Corridors

Require development permitted in corridors to: (1) minimize removal of vegetation, (2) minimize land exposure during construction and use temporary vegetation or mulching to protect critical areas, (3) minimize erosion, sedimentation, and runoff by appropriately grading and replanting modified areas, (4) use only adapted native or non-invasive exotic plant species when replanting, (5) provide sufficient passage for native and anadromous fish as specified by the State Department of Fish and Game, (6) minimize adverse effects of waste water discharges and entrainment, (7) prevent depletion of groundwater supplies and substantial interference with surface and subsurface waterflows, (8) encourage waste water reclamation, (9) maintain natural vegetation buffer areas that protect riparian habitats, and (10) minimize alteration of natural streams.

7.11 Establishment of Buffer Zones

a. On both sides of riparian corridors, from the “limit of riparian vegetation” extend buffer zones 50 feet outward for perennial streams and 30 feet outward for intermittent streams.

b. Where no riparian vegetation exists along both sides of riparian corridors, extend buffer zones 50 feet from the predictable high water point for perennial streams and 30 feet from the midpoint of intermittent streams.

c. Along lakes, ponds, and other wet areas, extend buffer zones 100 feet from the high water point except for manmade ponds and reservoirs used for agricultural purposes for which no buffer zone is designated.

7.12 Permitted Uses in Buffer Zones

Within buffer zones, permit only the following uses: (1) uses permitted in riparian corridors, (2) residential uses on existing legal building sites, set back 20 feet from the limit of riparian vegetation, only if no feasible alternative exists, and only if no other building site on the parcel exists, (3) in Planned Agricultural, Resource Management and Timber Preserve Districts, residential structures or impervious surfaces only if no feasible alternative exists, (4) crop growing and grazing consistent with Policy 7.9, (5) timbering in "streamside corridors" as defined and controlled by State and County regulations for timber harvesting, and (6) no new residential parcels shall be created whose only building site is in the buffer area.

7.13 Performance Standards in Buffer Zones

Require uses permitted in buffer zones to: (1) minimize removal of vegetation, (2) conform to natural topography to minimize erosion potential, (3) make provisions (i.e., catch basins) to keep runoff and sedimentation from exceeding pre-development levels, (4) replant where appropriate with native and non-invasive exotics, (5) prevent discharge of toxic substances, such as fertilizers and pesticides, into the riparian corridor, (6) remove vegetation in or adjacent to manmade agricultural ponds if the life of the pond is endangered, (7) allow dredging in or adjacent to manmade ponds if the San Mateo County Resource Conservation District certified that siltation imperils continued use of the pond for agricultural water storage and supply, and (8) require motorized machinery to be kept to less than 45 dBA at any wetland boundary except for farm machinery and motorboats.

7.14 Definition of Wetland

Define wetland as an area where the water table is at, near, or above the land surface long enough to bring about the formation of hydric soils or to support the growth of plants which normally are found to grow in water or wet ground. Such wetlands can include mudflats (barren of vegetation), marshes, and swamps. Such wetlands can be either fresh or saltwater, along streams (riparian), in tidally influenced areas (near the ocean and usually below extreme high water of spring tides), marginal to lakes, ponds, and manmade impoundments. Wetlands do not include areas which in normal rainfall years are permanently submerged (streams, lakes, ponds and impoundments), nor marine or estuarine areas below extreme low water of spring tides, nor vernally wet areas where the soils are not hydric.

In San Mateo County, wetlands typically contain the following plants: cordgrass, pickleweed, jaumea, frankenia, marsh mint, tule, bullrush, narrow-leaf cattail, broadleaf cattail, pacific silverweed, salt rush, and bog rush. To qualify, a wetland must contain at least a 50% cover of some combination of these plants, unless it is a mudflat.

7.15 Designation of Wetlands

a. Designate the following as wetlands requiring protection: Pescadero Marsh, Pillar Point Marsh (as delineated on Map 7.1), marshy areas at Tunitas Creek, San Gregorio Creek, Pomponio Creek and Gazos Creek, and any other wetland meeting the definition in Policy 7.14.

b. At the time a development application is submitted, consider modifying the boundary of Pillar Point Marsh (as delineated on Map 7.1) if a report by a qualified professional, selected jointly by the County and the applicant, can demonstrate that land within the boundary does not meet the definition of a wetland.

7.16 Permitted Uses in Wetlands

Within wetlands, permit only the following uses: (1) nature education and research, (2) hunting, (3) fishing, (4) fish and wildlife management, (5) mosquito abatement through water management and biological controls; however, when determined to be ineffective, allow chemical controls which will not have a significant impact, (6) diking, dredging, and filling only as it serves to maintain existing dikes and an open channel at Pescadero Marsh, where such activity is necessary for the protection of pre-existing dwellings from flooding, or where such activity will enhance or restore the biological productivity of the marsh, (7) diking, dredging, and filling in any other wetland only if such activity serves to restore or enhance the biological productivity of the wetland, (8) dredging manmade reservoirs for agricultural water supply where wetlands may have formed, providing spoil disposal is planned and carried out to avoid significant disruption to marine and wildlife habitats and water circulation, and (9) incidental public service purposes, including, but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.

7.17 Performance Standards in Wetlands

Require that development permitted in wetlands minimize adverse impacts during and after construction. Specifically, require that: (1) all paths be elevated (catwalks) so as not to impede movement of water, (2) all construction takes place during daylight hours, (3) all outdoor lighting be kept at a distance away from the wetland sufficient not to affect the wildlife, (4) motorized machinery be kept to less than 45 dBA at the wetland boundary, except for farm machinery, (5) all construction which alters wetland vegetation be required to replace the vegetation to the satisfaction of the Planning Director including “no action” in order to allow for natural reestablishment, (6) no herbicides be used in wetlands unless specifically approved by the County Agricultural Commissioner and State Department of Fish and Game, and (7) all projects be reviewed by the State Department of Fish and Game and State Water Quality Board to determine appropriate mitigation measures.

7.18 Establishment of Buffer Zones

Buffer zones shall extend a minimum of 100 feet landward from the outermost line of wetland vegetation. This setback may be reduced to no less than 50 feet only where (1) no alternative development site or design is possible; and (2) adequacy of the alternative setback to protect wetland resources is conclusively demonstrated by a professional biologist to the satisfaction of the County and the State Department of Fish and Game. A larger setback shall be required as necessary to maintain the functional capacity of the wetland ecosystem.

7.19 Permitted Uses in Buffer Zones

Within buffer zones, permit the following uses only: (1) uses allowed within wetlands (Policy 7.16) and (2) public trails, scenic overlooks, and agricultural uses that produce no impact on the adjacent wetlands.

7.32 Designation of Habitats of Rare and Endangered Species

Designate habitats of rare and endangered species to include, but not be limited to, those areas defined on the Sensitive Habitats Map for the Coastal Zone.

7.33 Permitted Uses

a. Permit only the following uses: (1) education and research, (2) hunting, fishing, pedestrian and equestrian trails that have no adverse impact on the species or its habitat, and (3) fish and wildlife management to restore damaged habitats and to protect and encourage the survival of rare and endangered species.

b. If the critical habitat has been identified by the Federal Office of Endangered Species, permit only those uses deemed compatible by the U.S. Fish and Wildlife Service in accordance with the provisions of the Endangered Species Act of 1973, as amended.

7.34 Permit Conditions

In addition to the conditions set forth in Policy 7.5, require, prior to permit issuance, that a qualified biologist prepare a report which defines the requirements of rare and endangered organisms. At minimum, require the report to discuss: (1) animal food, water, nesting or denning sites and reproduction, predation and migration requirements, (2) plants life histories and soils, climate and geographic requirements, (3) a map depicting the locations of plants or animals and/or their habitats, (4) any development must not impact the functional capacity of the habitat, and (5) recommend mitigation if development is permitted within or adjacent to identified habitats.

7.35 Preservation of Critical Habitats

Require preservation of all habitats of rare and endangered species using criteria including, but not limited to, Section 6325.2 (Primary Fish and Wildlife Habitat Area

Criteria) and Section 6325.7 (Primary Natural Vegetative Areas Criteria) of the Resource Management Zoning District.

7.36 San Francisco Garter Snake

a. Prevent any development where there is known to be a riparian or wetland location for the San Francisco garter snake with the following exceptions: (1) existing manmade impoundments smaller than one-half acre in surface, and (2) existing manmade impoundments greater than one-half acre in surface providing mitigation measures are taken to prevent disruption of no more than one half of the snake's known habitat in that location in accordance with recommendations from the State Department of Fish and Game.

b. Require developers to make sufficiently detailed analyses of any construction which could impair the potential or existing migration routes of the San Francisco garter snake. Such analyses will determine appropriate mitigation measures to be taken to provide for appropriate migration corridors.

7.44 Permitted Uses

Permit only the following uses: (1) education and research, (2) hunting, fishing, pedestrian and equestrian trails that have no adverse impact on the species or its habitat, and (3) fish and wildlife management to the degree specified by existing governmental regulations.

7.48 Monterey Pine

a. Require any development to keep to a minimum the number of native Monterey pine cut in the natural pine habitat near the San Mateo-Santa Cruz County line.

b. Allow the commercial cutting of Monterey pine if it: (1) perpetuates the long-term viability of stands, (2) prevents environmental degradation, and (3) protects the viewshed within the Cabrillo Highway Scenic Corridor.

c. To preserve the productivity of prime agricultural soils, encourage the control of invasive Monterey pine onto the soils.

7.51 Voluntary Cooperation

Encourage the voluntary cooperation of private landowners to remove from their lands the undesirable pampas grass, French, Scotch and other invasive brooms. Similarly, encourage landowners to remove blue gum seedlings to prevent their spread.

8.5 Location of Development

a. Require that new development be located on a portion of a parcel where the development (1) is least visible from State and County Scenic Roads, (2) is least likely to significantly impact views from public viewpoints, and (3) is consistent with all other LCP requirements, best preserves the visual and open space qualities of the parcel overall. Where conflicts in complying with this requirement occur, resolve them in a manner which on balance most protects significant coastal resources on the parcel, consistent with Coastal Act Section 30007.5.

Public viewpoints include, but are not limited to, coastal roads, roadside rests and vista points, recreation areas, trails, coastal accessways, and beaches.

This provision does not apply to enlargement of existing structures, provided that the size of the structure after enlargement does not exceed 150% of the pre-existing floor area, or 2,000 sq. ft., whichever is greater.

This provision does not apply to agricultural development to the extent that application of the provision would impair any agricultural use or operation on the parcel. In such cases, agricultural development shall use appropriate building materials, colors, landscaping and screening to eliminate or minimize the visual impact of the development.

b. Require, including by clustering if necessary, that new parcels have building sites that are not visible from State and County Scenic Roads and will not significantly impact views from other public viewpoints. If the entire property being subdivided is visible from State and County Scenic Roads or other public viewpoints, then require that new parcels have building sites that minimize visibility from those roads and other public viewpoints.

*8.17 Alteration of Landforms; Roads and Grading

a. Require that development be located and designed to conform with, rather than change landforms. Minimize the alteration of landforms as a consequence of grading, cutting, excavating, filling or other development.

c. Control development to avoid the need to construct access roads visible from State and County Scenic Roads. Existing private roads shall be shared wherever possible. New access roads may be permitted only where it is demonstrated that use of existing roads is physically or legally impossible or unsafe. New roads shall be (1) located and designed to minimize visibility from State and County Scenic Roads and (2) built to fit the natural topography and to minimize alteration of existing landforms and natural characteristics.

This provision does not apply to agricultural development to the extent that application of the provision would impair any agricultural use or operation, or convert agricultural soils. In such cases, build new access roads to minimize alteration of existing landforms and natural characteristics.

8.18 Development Design

a. Require that development (1) blend with and be subordinate to the environment and the character of the area where located, and (2) be as unobtrusive as possible and not detract from the natural, open space or visual qualities of the area, including but not limited to siting, design, layout, size, height, shape, materials, colors, access and landscaping.

The colors of exterior materials shall harmonize with the predominant earth and vegetative colors of the site. Materials and colors shall absorb light and minimize reflection. Exterior lighting shall be limited to the minimum necessary for safety. All lighting, exterior and interior, must be placed, designed and shielded so as to confine direct rays to the parcel where the lighting is located.

Except for the requirement to minimize reflection, agricultural development shall be exempt from this provision. Greenhouse development shall be designed to minimize visual obtrusiveness and avoid detracting from the natural characteristics of the site.

b. Require screening to minimize the visibility of development from scenic roads and other public viewpoints. Screening shall be by vegetation or other materials which are native to the area or blend with the natural environment and character of the site.

8.20 Scale

Relate structures in size and scale to adjacent buildings and landforms.

8.28 Definition of Scenic Corridors

Define scenic corridors as the visual boundaries of the landscape abutting a scenic highway and which contain outstanding views, flora, and geology, and other unique natural or manmade attributes and historical and cultural resources affording pleasure and instruction to the highway traveler.

8.29 Designation of Officially Adopted State Scenic Roads and Corridors

Recognize officially adopted State Scenic Roads and Corridors as shown on the Scenic Roads and Corridors Map for the Coastal Zone. These are: Coast Highway south of Half Moon Bay city limits (State Route 1) and Skyline Boulevard (State Route 35).

8.31 Regulation of Scenic Corridors in Rural Areas

a. Apply the policies of the Scenic Road Element of the County General Plan.

b. Apply Section 6325.1 (Primary Scenic Resources Areas Criteria) of the Resource Management (RM) Zoning District as specific regulations protecting Scenic Corridors in the Coastal Zone.

c. Apply the Rural Design Policies of the LCP.

d. Apply the Policies for Landforms and Vegetative Forms of the LCP.

e. Require a minimum setback of 100 feet from the right-of-way line, and greater where possible; however, permit a 50-foot setback when sufficient screening is provided to shield the structure from public view.

f. Continue applying special regulations for the Skyline Boulevard and Cabrillo Highway State Scenic Corridors.

## IMPLEMENTATION PLAN

SECTION 6325. SUPPLEMENTARY REVIEW CRITERIA FOR PRIMARY RESOURCE AREAS.

These supplementary review criteria shall apply to developments that fall within Primary Resource Areas as designated or defined in the Conservation and Open Space Element of the San Mateo County General Plan. These criteria are in addition to all other Development Permit Review Criteria.

SECTION 6325.1 PRIMARY SCENIC RESOURCES AREAS CRITERIA.

The following criteria shall apply within Scenic Corridors and other Primary Scenic Resource Areas as defined or designated in the Open Space and Conservation Element of the San Mateo County General Plan:

(a) Public views within and from Scenic Corridors shall be protected and enhanced, and development shall not be allowed to significantly obscure, detract from, or negatively affect the quality of these views. Vegetative screening or setbacks may be used to mitigate such impacts...

(c) Within a corridor, pathway pavements should be colored or selected to blend in with the surrounding landscape...

(e) Curved approaches to Scenic Corridors shall be used in conjunction with native planting to screen access roads from view. Additional planting may be required where existing planting is considered insufficient. Planting shall be placed so that it does not constitute a safety hazard.

(f) The number of access roads to a Scenic Corridor shall be minimized wherever possible. Development access roads shall be combined with the intent of minimizing intersections with scenic roads, prior to junction with a Scenic Corridor unless severely constrained by

topography. Traffic loops shall be used to the maximum extent possible so that dead-end roads may be minimized...

(g) Colors and plant materials shall be selected as necessary to minimize visual impact of development upon Scenic Corridors...

(h) Selective clearing of vegetation which allows the display of important public views may be permitted.

(i) Scenic Corridor development should include vista points and roadside rests which provide an opportunity to view scenic amenities and natural features...

(k) No development, with the exception of agricultural uses, shall be permitted on grass and/or brush land in Scenic Areas unless such development will be screened effectively from existing or proposed public viewing areas of Scenic Corridors...

(m) No development shall be permitted to obstruct or significantly detract from views of any Scenic Area or Landscape Feature from a Scenic Corridor.

(n) Screening as required under this section should not consist of solid fencing, rather it should be of natural materials of the area, preferably natural vegetation in conjunction with low earth berms.

SECTION 6328.3 DEFINITIONS…

(h) "Development" means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land including lots splits, except where the division of land is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations which are in accordance with a timber harvesting plan, submitted pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973 (commencing with Section 4511).

As used in this section, "structure" includes, but is not limited to, any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line.

SECTION 6328.5. EXEMPTIONS. The projects listed below shall be exempt from the requirement for a Coastal Development Permit. Requirements for any other permit are unaffected by this Section.

(a) The maintenance, alteration, or addition to existing single-family dwellings; however, the following classes of development shall require a permit because they involve a risk of adverse environmental impact:

(1) Improvements to a single-family structure on a beach, wetland or seaward of the mean high tide line.

(2) Any significant alteration of landforms including removal or placement of vegetation, on a beach, wetland or sand dune, or within 50 feet of the edge of a coastal bluff.

(3) The expansion or construction of water wells or septic systems.

(4) On property located between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide of the sea where there is no beach, whichever is the greater distance, or in scenic road corridors, an improvement that would result in an increase of 10% or more of internal floor area of an existing structure, the construction of an additional story (including lofts) in an existing structure, and/or any significant non-attached structure such as garages, fences, shoreline protective works, docks or trees.

(5) In areas determined to have critically short water supply that must be maintained for the protection of coastal resources or public recreational use, the construction of any specified major water using development not essential to residential use including but not limited to swimming pools, or the construction or extension of any landscaping irrigation system.

(d) Repair or maintenance activities that do not result in an addition to, or enlargement or expansion of, the object of such repair or maintenance activities; however, the following classes of development shall require a permit because they involve a risk of adverse environmental impact:

(1) Any method of repair or maintenance of a seawall, revetment, bluff retaining wall, breakwater, groin, or similar shoreline work that involves:

a) Repair or maintenance involving substantial alteration of the foundation of the protective work including pilings and other surface or subsurface structures;

b) The placement, whether temporary or permanent, of riprap, artificial berms of sand or other beach materials, or any other forms of solid materials, on a beach or in coastal water, streams, wetlands, estuaries and lakes or on a shoreline protective work;

c) The replacement of 20% or more of the materials of an existing structure with materials of a different kind; or

d) The presence, whether temporary or permanent, of mechanized construction equipment or construction materials on any sand area or bluff or within 20 feet of coastal waters or streams.

a. *(2) The replacement of 50% or more of a seawall, revetment, bluff retaining wall, breakwater, groin or similar protective work under one ownership.*

SECTION 6353. USES PERMITTED SUBJECT TO THE ISSUANCE OF A PLANNED AGRICULTURAL PERMIT. The following uses are permitted in the PAD subject to the issuance of a Planned Agricultural Permit, which shall be issued in accordance with the criteria set forth in Section 6355 of this Ordinance.

Applications for Planned Agricultural Permits shall be made to the County Planning Commission and shall be considered in accordance with the procedures prescribed by the San Mateo County Zoning Ordinance for the issuance of use permits and shall be subject to the same fees prescribed therefore…

B. On Lands Suitable for Agriculture and Other Lands

1. Single-family residences.

2. Farm labor housing.

3. Multi-family residences if for affordable housing.

4. Public recreation/shoreline access trail (see Section 6355D.3 and 4).

5. Schools.

6. Fire stations.

7. Commercial recreation.

8. Aquacultural activities.

9. Wineries, subject to the findings required for the approval of use permits established in Section 6503 of the San Mateo County Zoning Ordinance.

10. Timber harvesting, commercial woodlots subject to the issuance of a timber harvesting permit, and storage of logs.

11. Onshore oil and gas exploration, production, and storage subject to the issuance of an oil well permit.

12. Facilities for the processing, storing, packaging, and shipping of agricultural products.

13. Uses ancillary to agriculture.

14. Kennels or catteries, subject to a kennel/cattery permit.

15. Scientific/technical research and test facilities, provided a Planned Agricultural Permit shall only be issued for this use upon the following findings…

16. Permanent roadstands for the sale of produce, subject to the findings required for the approval of use permits established in Section 6503 of the San Mateo County Zoning Ordinance.

SECTION 6355. SUBSTANTIVE CRITERIA FOR ISSUANCE OF A PLANNED AGRICULTURAL PERMIT. It shall be the responsibility of an applicant for a Planned Agricultural Permit to provide factual evidence which demonstrates that any proposed land division or conversion of land from an agricultural use will result in uses which are consistent with the purpose of the Planned Agricultural District, as set forth in Section 6350. In addition, each application for a division or conversion of land shall be approved only if found consistent with the following criteria…

F. Criteria for the Conversion of Lands Suitable for Agriculture and Other Lands

All lands suitable for agriculture and other lands within a parcel shall not be converted to uses permitted by a Planned Agricultural Permit unless all of the following criteria are met:

1. All agriculturally unsuitable lands on the parcel have been developed or determined to be undevelopable, and

2. Continued or renewed agricultural use of soils is not capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors (Section 30108 of the Coastal Act), and

3. Clearly defined buffer areas are developed between agricultural and non-agricultural uses, and

4. The productivity of any adjacent agricultural lands is diminished, including the ability of the land to sustain dry farming or animal grazing, and

5. Public service and facility expansions and permitted uses do not impair agricultural viability, either through increased assessment costs or degraded air and water quality, and

For parcels adjacent to urban areas, permit conversion if the viability of agricultural uses is severely limited by conflicts with urban uses, and the conversion of land would complete a logical and viable neighborhood and contribute to the establishment of a

stable limit to urban development, and conditions 3, 4, and 5 of this subsection are satisfied.

## SAN MATEO COUNTY GENERAL PLAN

The following policies of the Scenic Road Element of the San Mateo County General Plan are incorporated in the LCP by reference in LUP Policy 8.31a.

4.46 Regulation of Development in Scenic Corridors

Institute special controls to regulate both site and architectural design of structures located within rural scenic corridors in order to protect and enhance the visual quality of select rural landscapes.

4.47 Topography and Vegetation

Design structures which conform to the natural topography and blend rather than conflict with the natural vegetation.

4.48 Scale

Design structures which are compatible in size and scale with their building site and surrounding environment, including adjacent man-made or natural features.

4.58 Views

To the extent practicable, locate development in scenic corridors so it does not obstruct views from scenic roads or disrupt the visual harmony of the natural landscape.

The LCP uses the term migration corridors, but it is assumed that the intent is to refer to movement routes. California red-legged frogs and San Francisco garter snakes don't really migrate because their movement is not a predictable and usually seasonal movement from one major habitat to another, but rather a random wandering or dispersal (McGinnis 2001).

Class II soils are those that "can be cultivated regularly, but do not have quite so wide range of suitability as Class I soils." Soil classes are part of a capability grouping of soils based on the relative suitability of soils for crops, grazing, forestry, and wildlife, as defined by the U.S. Department of Agriculture Soil Conservation Service (U.S. Department of Agriculture 1961).